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Severance Payments are FICA Wages

This morning the US Supreme Court issued a ruling providing that severance payments are taxable FICA wages. In United States vs. Quality Stores, Quality Stores made severance payments to employees who were involuntarily terminated as part of Quality Stores' Chapter 11 bankruptcy. Quality Stores paid and withheld income and FICA taxes from the severance payments. Later, Quality Stores sought a refund on behalf of itself and former employees for FICA taxes withheld and paid. When the IRS did not allow the refund, Quality Stores initiated proceedings in Bankruptcy Court, which eventually reached the Supreme Court.

After an exhaustive review of the historical aspects of the Tax Code and FICA, dating back to 1939, the Supreme Court determined that the definition of FICA wages is meant to be as broad as possible. Section 3121(a) defines "wages" broadly as "all remuneration for employment." Severance payments fit this definition because they are a form of remuneration made only to employees in consideration for employment. Therefore, severance payments are FICA wages and are subject to FICA tax withholding.

A copy of the ruling can be found on the courts webpage .