



## **Robert W. Wood** THE TAX LAWYER

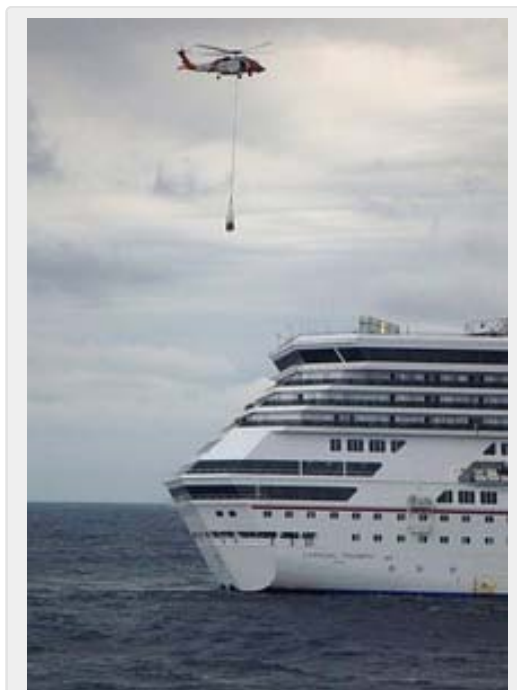
Feb. 16 2013

### Passengers Sue 'Floating Hell' Cruise Line

It was no Titanic or Poseidon Adventure, but the crippled Carnival Triumph carrying 3,143 passengers and 1,086 crew was still a floating hell, claims the first lawsuit filed after the stinking vessel limped back to port. Passenger Cassie Terry sued Carnival seeking unspecified damages. She feared for her life, serious injury or illness because of raw sewage and spoiled food. The suit alleges “horrifying conditions” and describes the paralyzed vessel as “a floating toilet, a floating Petri dish, a floating hell.”

**“Plaintiff was forced to endure unbearable and horrendous odors on the filthy and disabled vessel, and wade through human feces in order to reach food lines where the wait was counted in hours, only to receive rations of spoiled food.”**

What’s more, during the long, slow tow back to civilization, the ship repeatedly tilted “causing human waste to spill out of non-functioning



A Coast Guard helicopter crew delivers approximately 3,000 pounds of equipment, including a generator and electrical cables, from the offshore supply vessel Lana Rose to the Carnival Cruise Ship Triumph February 13, 2013 in the Gulf of Mexico. (Image credit: Getty Images via @daylife)

toilets, flood across the vessel's floors and halls, and drip down the vessel's walls." Nauseated and running a fever, the plaintiff was headed for the doctor.

Doctor visits will likely be important for significant damages. Emotional injuries are usually worth less than physical ones, and how that inexact line plays out impacts taxes too. Generally, everything is income to the IRS. Damages for physical injuries and physical sickness are tax-free, but not physical symptoms caused by emotional distress.

But tax disputes are common, since the IRS and Congress haven't clarified what's physical and what's not. See [Tax-Free Physical Sickness Recoveries in 2010 and Beyond](#). A cruise ship settlement for "emotional distress" is taxable, but one for physical sickness and emotional distress caused by physical sickness should be tax-free. Also, [is PTSD physical injury for tax purposes?](#) Arguably yes, although authorities are unclear. See [Are PTSD Recoveries Tax Free?](#)

If a passenger loses possessions and is reimbursed, the cash could be taxed. Still, passengers should be able to recover their basis before they have income. That could mean only the excess is taxed. Of course, proof problems can be severe—who keeps receipts for personal items? For tips, see [Need A Tax Receipt?](#)

How the settlement is reported (on IRS [Forms 1099](#)) can matter. Plaintiffs have more flexibility to reduce taxes if they negotiate a settlement with an eye on tax rules. The IRS isn't bound by an agreement's wording, but it can help.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax InSTITUTE](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*