

Certain Severance Benefits Are Not Subject to FICA Payroll Taxation: Sixth Circuit Denies Petition for En Banc Rehearing of Its Holding in Quality Stores

January 15, 2013 | Client Update

On January 4, 2013, the Sixth Circuit denied the U.S. government's petition for en banc review of its September 2012 decision in *United States v. Quality Stores* that certain severance payments qualified as supplemental unemployment compensation benefits ("SUB payments") and therefore did not constitute "wages" for purposes of Social Security and Medicare taxation under the Federal Insurance Contribution Act (FICA). This case may have a significant impact on companies and individual taxpayers alike, given the number of businesses that have downsized their workforces in recent years.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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