

**CASE DIGEST:**     *U.S. Dep't of the Treasury, IRS, 72 FLRA 308 (Member Abbott concurring; Chairman DuBester dissenting)*

The Authority held that § 132(f) of the Internal Revenue Code (Tax Code) is not a law affecting conditions of employment, because it has only an incidental impact on working conditions of employees. Accordingly, the Authority found that the Arbitrator did not have jurisdiction to address whether the Agency was permitted to withhold taxes, under the Tax Code, when retroactively reimbursing employees' transit-subsidy payments.

Member Abbott concurred, agreeing that the Arbitrator did not have jurisdiction. Member Abbott wrote separately to discuss the outer edge to the reach of the Statute.

Chairman DuBester dissented, finding that the Arbitrator clearly had jurisdiction to resolve the Union's grievance, which alleged that the Agency violated the Federal Service Labor-Management Relations Statute by failing to comply with the remedial terms of earlier arbitration awards. The Arbitrator's analysis of whether the Back Pay Act required taxation of the payments the Agency owed to employees pursuant to the awards – and his reference to the relevant tax code provisions in answering that question – did not divest him of jurisdiction over the dispute.

This case digest is a summary of a decision issued by the Federal Labor Relations Authority, with a short description of the issues and facts of the case. Descriptions contained in this case digest are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.