| **OFFICE OF THE COMPTROLLER 815 CMR 5.00 PAYMENT AND TAX REPORTING OF SETTLEMENTS AND JUDGMENTS**  **EMPLOYMENT CLAIMS - All Claims Arising Out of Employment with the Commonwealth - All Employment Settlements and Judgments will be Processed in Accordance with these rules** | | | | | | |
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| **TYPES OF DAMAGES**  For payment purposes, employment related damages are classified into the following categories based upon tax treatment | **Are Damages Considered Wages?** | **Payment System**  **HR/CMS Payroll - Earnings Code**  **MMARS Object Code** | **PAYMENT MUST BE PAID UNDER THIS TIN (Tax Identification Number) for IRS and DOR purposes** | **Is Payment Subject to State, Federal, Medicare Tax or Retirement Withholdings?** | **Tax Reporting Form to Claimant** | **Tax Reporting for Attorney or 3rd party Payee?**  **(Manual)** |
| **Back pay.**  Damages must be awarded as a (1) specific amount and (2) specifically identified as “***back pay***” (lost wages etc.), based upon a number of days of salary. If other amounts are included as part of a ***back pay*** award amount, the entire amount must be treated as a ***lump sum***. Must be submitted with calculations spreadsheet showing number of days, salary per day, and any other salary calculations. May not be mixed with lump sum, front pay or attorney fees. | YES | Payroll  SJP (A11 – state employee)  SJB (C11 – contract employee)  Accounts Payable:  APK (A11 - state employee)  APX (C11 - contract employee) | Claimant  ***Joint checks to attorney or 3rd party not available for current employees.*** | YES  Mandatory Tax Withholdings prior to payment: (not negotiable)   1. Retirement % determined by Pension Plan deducted first, then subject to: 2. State tax 5.25% 3. Federal tax 25% 4. Medicare 1.45% unless exempt.   Personal tax exemptions not used | W-2 | YES  Manual Tax reportable to Attorney 1099-MISC (Box 14) or (Box 3 for 3rd party) if named payee on check (former employees only) for the amount of the check |
| **Lump sum**. Damages awarded without a specific breakdown or allocation, or as emotional distress, compensatory damages, consequential, overtime, front pay or all inclusive damages to settle a claim.  \*All lump sum payments are treated as wages for tax reporting and withholding purposes and will have withholdings made prior to payment. | YES\* | Payroll  S/J (A11 – state employee)  SJC (C11 – contract employee)  Accounts Payable:  APJ (A11 - state employee)  APC (C11 - contract employee) | Claimant TIN  ***Joint checks to attorney or 3rd party not available for current employees*** | YES  Mandatory Tax Withholdings prior to payment: (not negotiable)   1. State income tax 5.25% 2. Federal income tax 25% 3. Medicare 1.45% unless exempt   Personal tax exemptions not used | W-2 | YES  Manual Tax reportable to Attorney 1099-MISC (Box 14) or (Box 3) for 3rd party) if named payee on check, for the amount of the check |
| **Attorney Fees, Costs.** A Specific amount designated as attorney fees in a settlement or judgment. Attorney fees must be awarded as a (1) specific amount and (2) specifically identified as Attorney fees or court costs. Attorney fees and costs are normally paid directly to the Attorney. | NO | MMARS  (E52) Attorney TIN (Sole or Joint) | Attorney TIN | NO  Claimant responsible for taxes on amount.  Claimant may have a state/federal tax deduction for employment discrimination claims | Manual 1099-MISC (Box 3) | YES  Tax reportable to Attorney 1099-MISC (Box 14) for the amount of the check |
| **Punitive Damages.** Damages must be awarded as a (1) specific amount and (2) specifically identified as punitive damages. | NO | Payroll (TBD)  OR  MMARS  (E50) Claimant TIN Sole Payee  (E51) Claimant TIN (Joint w/Attorney)  (E52) Attorney TIN (Sole or Joint) | Payroll – Claimant TIN  OR  MMARS  (E50) Claimant TIN Sole Payee  (E51) Claimant TIN (Joint w/Attorney)  (E52) Attorney TIN (Sole or Joint) | NO  Claimant responsible for taxes on amount.  Punitive Damages generally taxable to Claimant.  Estimated taxes may be required prior to filing tax return. | 1099-MISC  (Box 3) | YES  If Joint check is paid to Attorney, Attorney will also receive a 1099-MISC (Box 14) for check amount. |
| **Interest.** Pre and Post Judgment interest on damages and Attorney fee interest. Payment instruction from CTR will determine if interest is payable through HR/CMS or MMARS. | NO | MMARS (E29)  Payroll (INT) | Claimant TIN  or  Attorney TIN | NO  Payee responsible for taxes on amount.  Interest is generally taxable. | 1099-INT if over $10 and paid under Claimant TIN | YES  Tax reportable to Attorney 1099-INT if processed under Attorney TIN and over $10. |
| **Non-tax reportable damages**. Limited to documented medical expenses for emotional distress. There are no personal injury claims for employment related damages that are tax exempt. Employment injuries default to workers comp under G.L. c, 152 | NO | HR/CMS (TBD)  OR  MMARS  (E53) Claimant TIN Sole Payee  (E54) Attorney TIN (Sole or Joint)  (E55) 3rd Party TIN (Sole or Joint) | (E53) Claimant TIN Sole Payee  (E54) Attorney TIN (Sole or Joint)  (E55) 3rd Party TIN (Sole or Joint) | NO | None | YES  Tax reportable to Attorney 1099-MISC (Box 14) or (Box 3) for 3rd party if named payee on check for the amount of the check |

| **OFFICE OF THE COMPTROLLER 815 CMR 5.00 PAYMENT AND TAX REPORTING OF SETTLEMENTS AND JUDGMENTS**  **NON-EMPLOYMENT RELATED CLAIMS - All claims that do not arise out of employment with the Commonwealth. All Non-Employment Settlements and Judgments will be Processed in Accordance with these rules** | | | | | |
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| **TYPES OF DAMAGES**  For payment purposes, non-employment related damages are classified into the following categories based upon tax treatment | **PAYMENT SYSTEM**  **MMARS OBJECT CODE** | **MUST BE PAID UNDER THIS TIN** | **STATE, FEDERAL, MEDICARE TAX WITHHOLDINGS?** | **TAX REPORTING FORM TO CLAIMANT** | **TAX REPORTING FOR ATTORNEY OR 3RD PARTY PAYEE?** |
| **Lump sum**. Damages are awarded as non-specified damages without a specific breakdown or allocation, or as emotional distress, compensatory damages, consequential or all inclusive damages to settle a claim. | MMARS  (E50) Claimant TIN Sole Payee  (E51) Claimant TIN (Joint w/Attorney)  (E52) Attorney TIN (Sole or Joint)  Construction  (N93) Attorney TIN (Sole or Joint)  (N94) Claimant TIN Sole Payee | E50) Claimant TIN Sole Payee  (E51) Claimant TIN (Joint w/Attorney)  (E52) Attorney TIN (Sole or Joint)  Construction  (N93) Attorney TIN (Sole or Joint)  (N94) Claimant TIN Sole Payee | NO  Claimant and Attorney responsible for taxes on amounts paid under their TIN.    Estimated taxes may be required prior to filing tax return. | (E50) 1099-MISC (Box 3)  (E51) 1099-MISC (Box 3)  (E52) Manual 1099-MISC (Box 3)  (N93) – Manual 1099-MISC (Box 3)  (N94) 1099-MISC (Box 3) | (E50) N/A (attorney not paid)  (E51) Manual 1099-MISC (Box 14) to Attorney if joint payee  (E52) 1099-MISC (Box 14)  (N93) 1099-MISC (Box 14(N94) None (not a payee) |
| **Attorney Fees, Costs.** Damages must be awarded as a (1) specific amount and (2) specifically identified as Attorney fees or costs. Attorney fees and costs are normally paid directly to the attorney. | MMARS  (E52) Attorney TIN (Joint Payee)  (E54) Attorney TIN (Sole Payee)  Construction  (N93) Attorney TIN (Sole or Joint) | Attorney TIN | NO  Claimant responsible for taxes on amount. | (E52) Manual 1099-MISC (Box 3)  (N93) 1099-MISC (Box 3) | (E52) 1099-MISC (Box 14) to Attorney  (E54) 1099-MISC (Box 14) to Attorney  (N93) Manual 1099-MISC (Box 14) to Attorney |
| **Punitive Damages.** Damages must be awarded as a (1) specific amount and (2) specifically identified as punitive damages. | (E50) Claimant TIN Sole Payee  (E51) Claimant TIN (Joint w/Attorney)  (E52) Attorney TIN (Sole or Joint) | (E50) Claimant TIN Sole Payee  (E51) Claimant TIN (Joint w/Attorney)  (E52) Attorney TIN (Sole or Joint) | NO  Claimant responsible for taxes on amount.  Punitive Damages generally taxable to Claimant.  Estimated taxes may be required prior to filing tax return. | (E50) 1099-MISC (Box 3)  (E51) 1099-MISC (Box 3)  (E52) Manual 1099-MISC (Box 3) | (E50) N/A (attorney not paid)  (E51) Manual 1099-MISC (Box 14) to attorney if joint payee  (E52) 1099-MISC (Box 14)  Joint with 3rd party – Manual 1099-MISC (Box 3) to 3rd party |
| **Interest.** Pre and Post Judgment interest on damages and Attorney fee interest. Payment instruction from CTR will determine if interest is payable through HR/CMS or MMARS. | MMARS  (E29) Non-Construction Interest  (N95) Construction Claim Interest  (N96) Eminent Domain Interest | Claimant TIN  or  Attorney TIN | NO  Payee on Check responsible for taxes on amount. | 1099-INT if over $10 and processed under Claimant TIN | YES  Tax reportable to Attorney 1099-INT if processed under Attorney TIN and over $10. |
| **Non-tax reportable damages**. Documented medical expenses for emotional distress, other non-tax reportable damages for Claimant as determined by CTR. | MMARS  (E53) Claimant TIN Sole Payee  (E54) Attorney TIN (Sole or Joint)  (E55) 3rd Party TIN (Sole or Joint) | (E53) Claimant TIN Sole Payee  (E54) Attorney TIN (Sole or Joint)  (E55) 3rd Party TIN (Sole or Joint) | NO | (E53) None  (E54) None  (E55) None | YES  (E53) N/A (attorney not paid)  (E54) 1099-MISC (Box 14) to Attorney  (E55)1099-MISC (Box 3) 3rd Party |