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ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration

Office of State Uniform Payroll

December 12, 2008

OFFICE OF STATE UNIFORM PAYROLL MEMORANDUM #2009-23

TO: All ISIS HR Paid Agencies

FROM: Jena W. Cary
Director

SUBJECT: Update to OSUP Memorandum #2002-04
Back Pay Awarded Under a Statute

Back pay awarded under a statute is a payment by an employer pursuant to an award, determination, or agreement approved by a court or government agency responsible for enforcing a law that protects an employee's right to employment or wages. Civil Service Commission hearings resulting in back pay are included within this definition. Interest and attorney fees may also be awarded as a result of the back pay.

Wages for back pay are considered wages in the year the payment is made and all applicable taxes should be withheld. Back pay wages are reported on the employee's W-2.

Interest payments are not considered wages and are exempt from payroll taxes. Interest should be reported on a Form 1099-INT, which is prepared by OSUP annually. **To ensure that no payroll taxes are withheld from the interest payment and that the interest payment will not be reported on a W-2, wage type 0211 should be used when processing the interest payment through ISIS HR.** The attached 1099 Request Form (OSUP/F20) must be completed and sent to OSUP whenever an interest payment is made. A Form 1099-INT will be processed at year end and mailed directly to the employee.

Since the laws governing back pay and/or interest payments are very detailed, contact the ISIS Help Desk using the Web Ticket located on the following website http://www.doa.louisiana.gov/ois/Service/User_Support/Helpdesk/helpdesk.htm for instructions on how to process these payments. On-line help is not available.

The payment of attorney fees will continue to be an agency responsibility. These payments are reported as income for the attorney on Form 1099-MISC through AFS under the agency EIN formerly used for payroll reporting. **OSUP will also issue a Form 1099-MISC to the employee for attorney fees paid pursuant to a back pay award on the employee's behalf. Agencies must advise OSUP of these payments.**

If you have any questions about paying or reporting attorney fees pursuant to a back pay award, contact James Lodge or Gloria Tilley with the Office of Statewide Reporting and Accounting Policy (OSRAP) at (225) 342-1097 or the OSUP Wage and Tax Administration Unit at _DOA-OSUP-WTA@la.gov or (225):

Wendy Eggert	342-0714	Cindy McClure	342-5346
Tiko Ary	342-1651	Tracy Smith	219-0191
Gary Bennett	342-1652		

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Attachment: Form OSUP/F20