

Office of State Uniform Payroll

Procedure Title: Back Pay Awarded Under A Statute (Wages, Attorney Fees, Interest)	Revision Date: 11/07/2017
Unit: Wage and Tax Administration Unit	Issue Date: 12/01/2014
Contact: _DOA-OSUP-WTA@la.gov	Page Number: 1 of 2

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. Since the laws governing back pay and/or interest payments are very detailed, agencies should submit a [LaGov HCM Help Desk](#) ticket for instructions for processing these payments. On-line help is not available.

- Wages
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.
- Attorney Fees
Agencies are responsible for the payment of attorney fees. These payments are reported as income for the attorney on Form 1099-MISC through AFS or LaGov (LaGov ERP Financial Agencies only) under the agency EIN used for accounting purposes (not OSUP's payroll EIN). 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.
- Interest
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 LaGov HCM. A 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.

An email should be sent to the OSUP Wage and Tax Unit with the following information to report attorney fees and interest:

- Employee Name
- Personnel Number
- Copy of court settlement
- Court settlement check date

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- Court settlement payment amount
- Court settlement paid via LaGov ERP, AFS or Imprest Fund?
- Attorney Name
- Payee (i.e. Employee and Attorney, Employee only, or Attorney only)
- Copy of check
- Attorney Fee Check Date
- Attorney Fee Amount
- Attorney Fee paid via LaGov ERP, AFS or Imprest Fund?
- Amount of Interest
- Form 1099 Request (OSUP/F20)