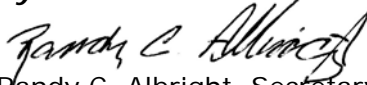


# MANAGEMENT DIRECTIVE

## Commonwealth of Pennsylvania Governor's Office

<b>Subject:</b> Payment of Wages, Salary, Employee Benefits, and Travel Expense Reimbursements Due Deceased Employees	<b>Number:</b> 315.13 Amended
<b>Date:</b> February 12, 2018	<b>By Direction of:</b>  Randy C. Albright, Secretary of the Budget
<b>Contact Agency:</b> Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations, Telephone 717.772.5340	

This directive establishes policy, responsibilities, and procedures for paying a survivor or personal representative of a deceased employee the wages, salary, employee benefits, and travel expense reimbursements due the deceased employee. This amendment increases the amount that payment is not to exceed from \$5,000 to \$10,000, effective with the Act of Oct. 30, 2017, P.L. 417, No. 41. Changes are indicated by marginal dots.

1. **PURPOSE.** To establish policy, responsibilities, and procedures for paying a survivor or personal representative of a deceased employee the wages, salary, employee benefits, and travel expense reimbursements due the deceased employee.
2. **SCOPE.** This directive applies to all departments, offices, boards, commissions, and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction and to independent agencies using the SAP Human Resources & Payroll module.
3. **OBJECTIVE.** To ensure the proper payment and reporting of wages, salary, employee benefits, and travel expense reimbursements due a deceased employee.
4. **DEFINITIONS.**
  - a. **Form H105-143, Certificate of Death (hereinafter referred to as "Form H105-143").** A record maintained by the Pennsylvania Department of Health, Division of Vital Records, which certifies (among other items) the decedent's name and address as well as the date, time, location, and cause of death.

- b. **Form STD-142, Affidavit to Procure Wages, Salary, Employee Benefits, or Travel Expenses Due a Deceased Employee (hereinafter referred to as "Form STD-142")**. A standard commonwealth form that a survivor may use to claim wages, salary, employee benefits, and travel expense reimbursements due a deceased employee, provided the deceased employee was a Pennsylvania resident and the total amount due is less than or equal to \$10,000.
- c. **Letters of Administration**. A document issued to the person appointed by a court as the administrator of a decedent's estate when the decedent dies without a valid will.
- d. **Letters Testamentary**. A document issued to the person named by a decedent in the decedent's will to be the executor/executrix of the estate.
- e. **Personal Representative**. A person named in a decedent's will as executor of the estate and who qualifies to administer the estate. Also, a person who qualifies as an administrator of the estate where the decedent has not named an executor in a will or the executor named does not qualify to administer the estate, or any party of interest who has filed a small estate petition decree of distribution.
- f. **Short Certificate**. A certificate issued by a registrar of wills upon the death of an individual, stating that the decedent's will has been probated and identifying the executor/executrix or, if there is no will, naming an administrator of the decedent's estate. A short certificate takes the place of letters testamentary and letters of administration.
- g. **Small Estate Petition Decree of Distribution**. An orphans' court division order issued in response to a small estate petition for the payment of a gross value not to exceed \$50,000 to the parties entitled thereto. A small estate petition decree of distribution may be issued with or without letters testamentary, letters of administration, or a probated will.
- h. **Survivor**. A spouse, child, mother, father, or any sister or brother who survives a deceased employee.
- i. **Taxpayer Identification Number (TIN)**. An identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. The most commonly used TINs are the Social Security number (SSN), and employer identification number (EIN). The U.S. Social Security Administration issues SSNs; the IRS issues all other types of TINs. Additional details regarding TINs can be viewed at <http://www.irs.gov/>.

## 5. POLICY.

- a. Pursuant to *20 Pa. C.S. § 3101(a)*, as amended by the *Act of December 1, 1994, (P.L. 655, No. 102)* and by the *Act of October 30, 2017, (P.L. 417, No. 41)*, "Any employer of a person dying domiciled in this commonwealth at any time after the death of the employee, whether or not a personal representative has been appointed, may pay wages, salary, or any employee benefits due the deceased in an amount not exceeding \$10,000 to the spouse, any child, the father or mother, or any sister or brother (preference being given in the order

named) of the deceased employee. Any employer making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and he shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefore to anyone prejudiced by an improper distribution."

- b. Pursuant to *20 Pa. C.S. § 3102, as amended by the Act of July 2, 2013 (P.L. 199, No. 35)*, "When any person dies domiciled in the commonwealth owning property (exclusive of real estate and of property payable under *Section 3101* (relating to payments to family and funeral directors), but including personal property claimed as the family exemption) of a gross value not exceeding \$50,000, the orphans' court division of the county wherein the decedent was domiciled at the time of his death, upon petition of any party in interest, in its discretion, with or without appraisal, and with such notice as the court shall direct, and whether or not letters have been issued or a will probated, may direct distribution of the property (including property not paid under *Section 3101*) to the parties entitled thereto. The authority of the court to award distribution of personal property under this section shall not be restricted because of the decedent's ownership of real estate, regardless of its value. The decree of distribution so made shall constitute sufficient authority to all transfer agents, registrars, and others dealing with the property of the estate to recognize the persons named therein as entitled to receive the property to be distributed without administration, and shall in all respects have the same effect as a decree of distribution after an accounting by a personal representative. Within one year after such a decree of distribution has been made, any party in interest may file a petition to revoke it because an improper distribution has been ordered. If the court shall find that an improper distribution has been ordered, it shall revoke the decree and shall direct restitution as equity and justice shall require."
- c. The commonwealth shall pay the total amount of wages, salary, employee benefits, and travel expense reimbursements due a deceased employee in accordance with the procedures in Section 7 of this directive. Survivors and personal representatives must use the appropriate document, based on the dollar amount owed to the deceased employee, to claim amounts due; **only a survivor may use Form STD-142**. Payments shall be addressed to the survivor, the party or parties designated by a small estate petition decree of distribution, or "The Estate of [deceased employee's name], [executor's name], Executor" designated by a short certificate.
- d. The laws of the state in which an employee resides at the time of death govern the appointment of an executor of the estate and the probate of the estate. Form STD-142 cannot be used to claim an amount due a deceased employee who resided outside of Pennsylvania at the time of death, regardless of where the survivor resides. In order to claim an amount due a deceased employee who resided outside of Pennsylvania, an executor properly appointed by the authorities of the appropriate state must:
  - (1) File an exemplified copy of the appointment with the registrar of wills in the county in which executory powers will be exercised.

**NOTE:** For commonwealth wages, salary, employee benefits, and travel expenses, executory powers are exercised in Dauphin County. The executor must wait one month from the deceased employee's date of death before exercising any executory powers in Pennsylvania.

- (2) Execute and file with the same registrar of wills an affidavit (attached to the exemplified copy of the appointment) stating that the decedent's estate is not, to the best of the executor's knowledge and insofar as the executor has been able to discover, indebted to any person in Pennsylvania and that the executor will not exercise any power that would not be permitted in the jurisdiction of the state in which the executor was appointed.
- e. Payments to survivors or personal representatives must be reported on IRS Form 1099-MISC, Miscellaneous Income (hereinafter referred to as "Form 1099-MISC"), in accordance with current [IRS Instructions for Form 1099-MISC, Miscellaneous Income](#). Survivors and personal representatives must supply an SSN or other appropriate TIN for IRS reporting purposes. Failure to supply the necessary TIN will result in backup withholding of federal income tax in accordance with *Management Directive 315.26, Backup Withholding on Missing and/or Incorrect Taxpayer Identification Numbers*.

**NOTE:** Additional information for personal representatives needing to apply for an employer identification number is available in the [IRS Instructions for Form SS-4, Application for Employer Identification Number](#) and [IRS Publication 559, Survivors, Executors, and Administrators](#).

- f. Payments to survivors and personal representatives shall be treated as follows for tax purposes:
- (1) For federal and state income tax purposes, an employee's tax year ends on the date of the employee's death. Salary and wage payments actually or constructively received up to the date of death are income to the deceased and subject to normal income tax withholding. These payments and the income taxes withheld must be reported on the deceased employee's IRS Form W-2, Wage and Tax Statement, (hereinafter referred to as "Form W-2") for the calendar year in which the date of death occurs. Payments to survivors or personal representatives that represent unpaid compensation for services rendered by the deceased employee **are not** subject to federal or state income tax withholding; however, such payments are income to the survivor or the estate and must be reported on Form 1099-MISC.
  - (2) Payments to survivors or personal representatives **are not** subject to local earned income taxes levied under the authority of the *Local Tax Enabling Act of December 31, 1965, P.L. 1257, as amended, 53 P.S. §§ 6924.101-6924.901*.
  - (3) Payments to survivors or personal representatives **are not** subject to the unemployment compensation tax.

- (4) For Social Security and Medicare tax purposes, payments to survivors or personal representatives **after the calendar year** in which the date of death occurs **are not wages**, as defined by *26 U.S.C. § 3121(a)*, and shall not be reported. Payments to survivors or personal representatives **in the calendar year** in which the date of death occurs **are wages** to the deceased employee and must be reported.

## 6. RESPONSIBILITIES.

- a. **Human Resources (HR)** Staff Supporting the Appointing Authority shall notify the Bureau of Commonwealth Payroll Operations (BCPO) and the Human Resources Service Center (HRSC) as soon as HR personnel become aware of the death of an employee.
- b. **Office of Administration (OA), Office for Human Resources Management, Human Resources Service Center (HRSC)** shall:
  - (1) Contact the survivor or personal representative to explain the wages, salary, employee benefits, and travel expense reimbursements due the deceased employee and provide the documentation that is required for a survivor or personal representative to claim the amount due.
  - (2) Process HR transactions in the SAP Enterprise Resource Planning system (hereinafter referred to as "SAP") and forward the appropriate documentation to BCPO for additional processing.
- c. **Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations (BCPO)** shall:
  - (1) Stop the processing of wages, salary, employee benefits, and travel expense reimbursements due a deceased employee after the employee's date of death and lock the employee record in SAP to prevent additional payments to the deceased.
  - (2) Calculate the wages, salary, employee benefits, and travel expense reimbursements due and overpayments that must be recovered from a deceased employee's final pay; create a final payroll that establishes a liability for the net payment due or a receivable for the net payment owed from the survivor or personal representative.
  - (3) Process the final payment for the amount due a deceased employee and provide Form W-2 and Form 1099-MISC to the survivor or personal representative.
  - (4) Maintain a file of pending wage, salary, employee benefits, and travel expense payments due deceased employees until the receipt of proper supporting documentation and TIN.

## 7. PROCEDURES.

### a. HR Staff Supporting the Appointing Authority and/or OA, HRSC.

- (1) Process a separation action with the appropriate reason code in SAP, in accordance with the business process procedure titled [Process an Employee Separation](#).
- (2) Estimate the total gross wages, salary, employee benefits, and travel expense reimbursements due the deceased employee and determine the appropriate document with which the survivor or personal representative can claim the amount due. The following scenarios apply only to employees who reside in Pennsylvania at the time of their death.

- (a) If the gross amount due is \$10,000 or less, Form STD-142, a small estate petition decree of distribution, or a short certificate may be used. **Only a survivor may use Form STD-142 to claim the amount due.**

- (b) If the gross amount due is greater than \$10,000 but less than or equal to \$50,000, a small estate petition decree of distribution or a short certificate may be used.

- (c) If the gross amount due is greater than \$50,000, a short certificate must be used.

**NOTE:** A TIN and complete address of the survivor or personal representative must be provided regardless of the type of document used to claim the amount due. This information will be used for federal tax forms and reporting. The survivor or personal representative must also provide a copy of Form H105-143 to ensure that all actions, absences and payments are processed according to the official record.

- (3) Ensure that a TIN and a complete address have been provided on Form STD-142, the small estate petition decree of distribution, or the short certificate and forward the completed form, along with a copy of Form H105-143, to BCPO.

### b. Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations (BCPO).

- (1) Reconcile all final payments and establishes the decedent liability in SAP in accordance with the business process procedure titled [Process – Deceased Employee](#).

- (2) Upon receipt of Form STD-142, a small estate petition decree of distribution, or a short certificate, forward the payment worksheet to payroll accounting for payment through the SAP Financial Accounting module.

**NOTE:** The payment worksheet also serves as the basis for Form 1099-MISC reporting.

- (3) Prepares and sends a letter of explanation for the payment to the survivor or personal representative.
- (4) Audits Form W-2 (applicable to the deceased employee) and Form 1099-MISC (applicable to the survivor or personal representative) and sends both forms to the survivor or personal representative, as applicable.

**This directive replaces, in its entirety, *Management Directive 315.13*, dated February 6, 2014.**