

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Lowell Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

April 13, 1983



A. A. JACKSON  
COMMISSIONER

You inquire whether the legal expenses incurred by your client in obtaining an out-of-court settlement in an age discrimination suit are deductible for purposes of Massachusetts income taxation.

Massachusetts gross income is defined as federal gross income with certain modifications not relevant here. (G.L. c. 62, s. 2). Federal gross income is all income from whatever source derived. (I.R.C. s. 61(a)). Payments to employees in settlement of a discrimination suit, based on compensation that they otherwise would have received had the discrimination not occurred, are includible as wages in their federal gross income. (Rev. Rul. 72-341, 1972-2, C.B. 32).

Massachusetts gross income is divided into two classes. Part A gross income, taxable at 10%, consists of dividends, capital gain, and certain interest. Part B gross income, taxable at 5%, consists of the remainder of Massachusetts gross income. (G.L. c. 62, s. 2(b)). The amounts paid by an employer in settlement of a discrimination case are included in Massachusetts Part B gross income.

Part B adjusted gross income is Part B gross income less the deductions allowable under Internal Revenue Code Section 62, along with other deductions and certain exceptions not applicable here. (G.L. c. 62, s. 2(d)). Legal expenses of employees are not Code Section 62 deductions.

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In determining Part B taxable income, the Part B adjusted gross income is reduced by certain deductions and exemptions, which do not include legal expenses. (G.L. c. 62, s. 3(B)).

Based upon the foregoing, it is ruled that the entire settlement is included in Massachusetts gross income; and that there is no deduction for the related legal expenses.

Very truly yours,



Commissioner of Revenue

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