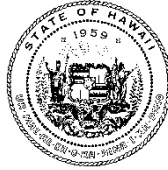


NEIL ABERCROMBIE
GOVERNOR



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STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES


P.O. BOX 119, HONOLULU, HAWAII 96810-0119

January 15, 2013

COMPTROLLER'S MEMORANDUM NO. 2013-02

TO: Heads of Departments and Agencies

ATTN: Fiscal and Personnel Offices

FROM: Dean H. Seki, Comptroller 

SUBJECT: Procedures for Salary and Wage Overpayment Recovery

Comptroller's Memorandum No. 2012-09, Procedures for Salary and Wage Overpayment Recovery, has been superseded to reflect new minimum amounts to be recovered and the related changes to Exhibit A, Notification of Salary or Wage Overpayment, and to Exhibit C, Response to Salary or Wage Overpayment Notice (Date of Notification Letter). All other procedures detailed in that comptroller's memorandum remain in effect and are included in this memorandum.

To minimize and to prevent salary overpayments require timely recording of all leaves earned and taken. Staff responsible for leave records should post all Form G-1s, Application for Leave of Absence, within five (5) working days of receipt.

For employees whose cumulative paid leave balances fall below ten (10) working days of vacation and ten (10) working days of sick (or 160 hours), departments and agencies should individually monitor and track the employees' paid leave balances to ensure that a salary overpayment does not occur.

If a salary overpayment occurs and the employee meets either of the following conditions, pursuant to § 78-13, Hawaii Revised Statutes (HRS), the employee should be placed on an "after-the-fact payroll" schedule as a non-salaried employee.

1. **Existing Salary Overpayment Balance.** Employees who have been working for the State for at least six (6) months, have no paid leave accumulated, and have an existing salary overpayment balance will be placed on an after-the-fact payroll schedule as a non-salaried employee. The employee may be paid the employee's salary, minus any salary overpayment offset pursuant to § 78-12, HRS, on the same pay dates and for the same pay periods as non-salaried employees. Upon accumulation of 80 hours of paid leave, the employee will be paid the employee's salary on the same pay dates and for the same pay periods as salaried employees.

2. **Repeated Salary Overpayments.** Employees who have been working for the State for at least six (6) months and have had at least two (2) incidents of leave which results in salary overpayment within the past six (6) months will be placed on after-the-fact payroll schedule as a on-salaried employee. The employee may be paid the employee's salary, minus any salary overpayment offset pursuant to § 78-12, HRS, on the same pay dates and for the same pay periods as non-salaried employees. If there are no incidents of leave which result in a salary overpayment for a subsequent four-month period, the employee will be paid the employee's salary on the same pay dates and for the same pay periods as salaried employees.

To implement the "after-the-fact payroll", an "incident" occurs when an employee does not report to work and is not ill nor excused for an emergency, or when the employee leaves work without being excused for illness or emergency. Any "incident" must immediately be reported to the departmental personnel office who will then prepare the required employee personnel action form resulting in a salary overpayment.

To comply with § 78-13(a), HRS, that requires an employee be paid twice a month, implementation of "after-the-fact" payroll should be done over two (2) pay periods. For the first pay date following notification, the employee should be paid for half of the pay to which he is entitled for that pay period and then be paid for the remaining portion to which he is entitled the following pay date.

As a final step to prevent salary overpayments, departments may:

1. Retrieve State employee's net pay that has been forwarded to a bank or other assignee for deposit. The action should only be used the day **before** pay day. All deduction assignees other than FIT, SIT, SS and Medicare taxes withheld should also be notified that a recall is being requested and that the employee's account should not be credited.
2. Request an employee's pay may be totally deleted from an upcoming pay day. The request should be faxed (586-0739) to the Central Payroll Section no later than 8:00 a.m. four (4) work days before pay day to stop the pay. Any fax received by 8:00 a.m. three (3) work days before pay day will be input but may not successfully stop the pay. Departments are then responsible for recalling the net pay deposit or holding and cancelling the net check due the employee.

If a salary overpayment could not be prevented, the department must take immediate action to recover the overpayment. Pursuant to § 78-12, HRS, the following action should be taken:

Determination. All State agencies and departments are responsible to identify salary overpayments as they occur and to notify the fiscal office within one (1) week of discovery unless the overpayment is a direct result of a determination for workers' compensation that has been pending, but in such case, the determination must be made within one (1) month of the determination.

All overpayments must then be immediately reported to the State's Employees' Retirement System (ERS). Personnel responsible for the timely reporting should access the ERS website, click on "Employers Forms" and select the "Retro/Overpayment Breakdown Template". Instructions are provided on the website on how to complete and submit the form.

Notice. Pursuant to §78-12, HRS, the department disbursing officer will determine the amount of the indebtedness and notify the employee within one (1) week of discovery of the salary overpayment. The notice will notify the employee in writing that if the employee contests the disbursing officer's determination of indebtedness, the employee may request a hearing pursuant to chapter 91 or, as applicable, a procedure provided in a collective bargaining agreement provided in lieu of the hearing.

The notice will also notify the employee that, if the employee does not respond, the employee will be deemed to have waived a hearing and recovery will begin immediately through payroll deductions. Additionally, the notice will notify the employee that pursuant to §78-12(f), HRS, regardless of whether a contested determination of indebtedness is pending, the disbursing officer will commence immediate recovery of the indebtedness by offset from the employee's periodic payment normally due the employee.

Refer to Exhibit A, Notification of Salary or Wage Overpayment, as a sample. The notice should be given to the employee in person or mailed to the employee's residence by certified mail. Additional information that shall be provided is Exhibit B, Computation of Overpayment, and Exhibit C, Response to Salary or Wage Overpayment Notice.

For preparation of Exhibit B, Computation of Overpayment, payroll personnel with access to Datamart, can extract employee's pay information by going to "Payroll" and selecting "Salary Overpayment Calculator". For payroll personnel without Datamart access, we have enclosed a sample worksheet that can be modified to expand for additional types of pay and deductions.

Upon receiving notice that the employee's pay is being offset, if the employee requests to pay the remaining balance by cash or check (payable to Director of Finance, State of Hawaii), prepare a Treasury Deposit Receipt, SAFORM B-13, and Notification for Payroll Adjustment, SAFORM D-70, (and SAFORM D-71, if applicable). Submit these forms with the cash or check to DAGS, Central Payroll.

Salary Overpayment Offset. Pursuant to §78-12, HRS, regardless of whether a contested determination of indebtedness is pending, the disbursing officer shall commence immediate recovery of the indebtedness as follows:

Salary Overpayment Amount	Maximum No. of Pay Periods to Recover	Other Conditions
Up to \$1,000.00	6	Not less than \$100 per pay period
\$1,000.01 to \$3,000.00	12	Not more than one-quarter of employee's total compensation per pay period
\$3,000.01 to \$5,000.00	18	Not more than one-quarter of employee's total compensation per pay period
Above \$5,000.01	24	Not more than one-quarter of employee's total compensation per pay period

The above table establishes the maximum number of pay periods in which to recover a particular salary overpayment amount. Dividing the salary overpayment amount by the maximum number of pay periods establishes the minimum amount that should be deducted from an employee's compensation per pay period. The maximum number of pay periods will not apply in situations where the minimum amount per pay period exceeds one-quarter of the employee's total compensation. In these situations, the department can only deduct one-quarter of the employee's total compensation per pay period until the outstanding salary overpayment amount is paid off. Amounts greater than the minimum may be deducted if agreed to by the employee.

If the total overpayment (OP) is for the **current calendar year and can be recovered in full by the last pay day of the calendar year**, the department may offset from the semimonthly gross salary or wages. Recovery of a current calendar year's overpayment by offset within the same calendar year will not require any further action since the current year's year-to-date earnings will have been corrected. Therefore, employees should be strongly encouraged to select this option.

If the OP is for the **current calendar year and cannot be recovered in full by the last pay day of the calendar year or the OP is for the prior calendar year**, the department is to submit a Salary Assignment/Cancellation, SAFORM D-60 with Assignment Type Code = "OP" (Salary Overpayment Recovery) to initiate the periodic payroll deductions. The deductions amounts must meet the established minimum.

The amount to be recovered from employees should be the Gross Salary/Wages overpaid less the federal income tax withheld and the state income tax withheld since the employee has received credit for taxes withheld, and the federal income tax withheld and the state income tax withheld cannot be adjusted in a subsequent calendar year.

The OP deduction checks are forwarded to the departments for deposit into a trust account. Departments are to accumulate all of the periodic deductions until the full amount of the employee's overpayment is recovered.

Upon full recovery of the employee's overpayment, a summary warrant voucher (MBP 462) must be prepared to generate a check from the trust account payable to the Director of Finance, State of Hawaii for the total amount of the overpayment. The department must also prepare a SAFORM B-13 and SAFORM D-70 (and SAFORM D-71, if applicable) and submits the completed forms with the check to Central Payroll Section.

Application of available leave. An employee and appointing authority may agree to offset any remaining amount of indebtedness by applying the current value of appropriate leave or compensatory time credits posted in the employee's respective accounts as balances that would otherwise be payable in cash upon separation from service. However, such credits shall not be applied to any extent that would require a refund of any moneys already deducted or repaid or that would require the payment of any moneys to the employee equivalent to a cashing out of leave or compensatory time credits.

1. Departmental personnel staff obtains from the employee a completed and signed "Agreement to Apply Vacation and/or Compensatory Time Off Credits Value to Repay Salary or Wage Overpayment" (Exhibit D).
2. Prepare a summary warrant voucher (MBP 462) made payable to the Director of Finance, State of Hawaii for the gross amount of the employee designated vacation credits and/or compensatory time credits to be used. A complete set of the summary warrant voucher should be sent to the Employees' Retirement System (ERS).
3. Report the gross amount of the accumulated vacation and/or compensatory time credits on the payroll change schedule as "waged in kind" coded type "T".
4. Prepare a payroll adjustment "Code 3" on the "Notification of Payroll Adjustment" (State Accounting Form D-70) to withhold retirement contributions from those employees who are contributory or hybrid members of the ERS. This adjustment must be input in the same payroll period that the "wages in kind" is reported.
5. Upon receipt of the Director of Finance check, follow the current overpayment recovery procedures.
6. Prepare a treasury deposit receipt (State Accounting Form B-13) to deposit the check into the payroll clearing account.
7. Prepared a "Notification of Payroll Adjustment" (State Accounting Form D-70) to record the repayment of the salary overpayment.
8. Send the treasury deposit slip, the payroll adjustment form, and if applicable, the "Employer's Share of Contribution Adjustment Sheet" (State Accounting Form D-71) to the Central Payroll Section of the DAGS' Accounting Division.

Transfer to Other Department. In the event an employee leaves the employment of a department to which they have an unpaid salary overpayment for another state department, the department will notify the employee's new department of employment of the salary overpayment. The new department of employment will then implement these policies, procedures, and practices to recover the outstanding salary overpayment.

Recovery of Overpayment From Former Employees. Any salary overpayment should be offset by any vacation or compensatory time pay due the employee. Any remaining balance of vacation or compensatory pay due should then be paid to the employee.

If the vacation or compensatory time pay due the employee does not offset the salary overpayment, the account should be referred to the Attorney General in accordance with instructions from the Attorney General.

Incorrect Determination of Indebtedness. If the determination of indebtedness was contested and subsequently found to be incorrect:

Any moneys repaid or deducted for any indebtedness in excess of the correct amount will be promptly refunded with interest specified by section; or

All leave or compensatory time credits applied to offset any indebtedness in excess of the correct amount shall be re-credited to the employee's respective leave or compensatory time accounts and shall not result in a cash payment.

Unlawfully Acquired Indebtedness. If the indebtedness has arisen or been incurred by reason of the employee having embezzled, stolen, or otherwise unlawfully acquired any moneys, the whole amount of the salary, wages, or compensation, or so much thereof as may be required to pay the indebtedness in full, shall be withheld.

If you or your staff have any questions or concerns regarding implementation of this memorandum, please call Sheila Walters of the Pre-Audit Branch at 586-0650.

Attachments

Department Letter Head
Date

Mr./Mrs./Miss/Ms.
Address
City, State, Zip Code

Dear

Subject: Notification of Salary or Wage Overpayment

This "Letter of Notification" informs you that you have been overpaid. Enclosed with this letter of notification are the "Overpayment Worksheet" that shows the details of the overpayment and the "Response to Salary or Wage Overpayment Notice" that allows you to request a hearing and/or request a change in the amount being deducted.

You are advised to respond to this letter immediately by completing the enclosed "Response to Salary or Wage Overpayment Notice". If you do not respond within fifteen (15) calendar days of the receipt of this letter, you have waived the right to a hearing and the amount of overpayment shall be deemed as established at \$_____.

The amount of \$_____ is being deducted and will continue to be deducted until the total overpayment is recovered in full.

It is very important that you inform us of your intentions by completing the enclosed "Response to Salary or Wage Overpayment Notice" and return it to the Employing Department or Agency shown at the top of the notice. Please call _____ at _____ if you have any questions relating to this notice and the two enclosures.

Sincerely,

Enclosures

TO: Departmental Contact Person
Employing Department or Agency
Address
City, State, Zip Code

FROM: (Employee Name)

SUBJECT: Response to Salary or Wage Overpayment Notice of (Date of Notification Letter)

HEARING Check one of the following:

_____ I do not request a hearing, I agree to the amount of the overpayment and to the amount being deducted until repayment in full.

_____ I do not request a hearing, I agree to the amount of the overpayment but I want to negotiate another deduction amount from my semimonthly gross pay. (Continue to next section.)

_____ I request a hearing to determine my salary overpayment. (If you choose this option, do not fill in the rest of this form. Sign and return the form.)

REPAYMENT PLAN OPTIONS

_____ I wish to make immediate and full repayment of the overpayment (OP) by cash or check.

_____ I wish to propose an increase from the minimum dollar amount of \$_____ currently being deducted from my salary, wages or compensation to \$_____. I understand this is my proposal only, and that this proposal must be accepted by the department before it is effective.

I further understand that for overpayment in excess of \$1,000, the maximum amount that may be withheld will be one-fourth (1/4) of salary, wages, or other compensation for each pay period.

_____ I wish to offset any remaining amount of indebtedness by applying the current value of appropriate leave (e.g., vacation leave) or compensatory time credits posted in my account that would otherwise be payable in cash upon my separation from service.

Acknowledged by:

Employee Signature

Authorized Signature of Dept./Agency

Social Security No. Date

Title Date

EXHIBIT D

AGREEMENT TO APPLY VACATION AND/OR COMPENSATORY TIME OFF CREDITS VALUE TO REPAY SALARY OR WAGE OVERPAYMENT

Department _____ Date _____

Employee Social Security No. _____ Pos. No. _____ Name _____ Payroll Number _____

I. ACCRUED CREDITS

	Hours	Current Hrly Rate*	Value
1. Accrued vacation credits as of _____	_____	\$ _____	\$ _____
2. Accrued CTO credits as of _____	_____	\$ _____	\$ _____
3. TOTAL Accrued credits	_____	\$ _____	\$ _____

II. ACCRUED CREDITS APPLIED FOR REPAYMENT Complete only after it is determined when repayment will be made and whether the repayment due is the gross or customary "net" amount.

	Hours	Current Hrly Rate*	Value	Accrued Hrs - Applied Hrs = Balance
1. Vacation Credits	_____	\$ _____	\$ _____	_____ - _____ = _____
2. CTO Credits	_____	\$ _____	\$ _____	_____ - _____ = _____

I authorize deduction of the above vacation and/or CTO credits for repayment of salary or wage overpayment.

EMPLOYEE SIGNATURE _____ DATE _____
 APPROVED: _____ REPRESENTATIVE RESPONSIBLE FOR FORM 7 TRANSACTION DATE _____

Form 7 Tracking Instructions

- Use new codes to record deduction of vacation/CTO credits for repayment of overpayment.
 OV = Vacation hours applied for repayment of an overpayment.
 OC = CTO hours applied for repayment of an overpayment.
- *Current hourly rate includes all differentials included in an employee's monthly salary. It does not include hourly differentials (e.g., night shift, working condition, etc.) that should have been paid in cash even if a CTO election is made in lieu of cash payment for OT.
- Convert hours to value by multiplying the hours by the employee's current hourly rate. Convert value to hours by dividing the value by employee's current hourly rate. For ease in tracking, as much as possible, have employee apply credits for repayment in 15-minute (1/4 hour) increments.
- On the Form 7, deduct the number of hours used for repayment of an overpayment using the transaction date.
- Keep a copy in the employee's official personnel file with the G-1's.
- Attach a copy to the employee's repayment agreement.