

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

January 7, 2019

COMPTROLLER'S MEMORANDUM NO. 2019-01

TO: Heads of Departments and Agencies

ATTN: Fiscal and Personnel Offices

FROM: Roderick K. Becker, Comptroller

A handwritten signature in black ink, appearing to read "Roderick K. Becker".

SUBJECT: Procedures for Salary and Wage Overpayment Recovery

Comptroller's Memorandum No. 2013-02, Procedures for Salary and Wage Overpayment Recovery, has been superseded to reflect new minimum amounts to be recovered and to incorporate Comptroller's Memorandum No. 2017-16, Revision to Salary Overpayment Offset Procedures and Comptroller's Memorandum No. 2017-18, Monthly Reporting of Salary and Wage Overpayments. All other procedures detailed in those comptroller's memorandum remain in effect and are included in this memorandum.

I. Reports - Monthly Salary Overpayments Reporting

The columnar reporting format remains basically the same with the addition of four columns highlighted in yellow on the sample report attached (Exhibit A).

Column	Title	Explanation
C	Date of Notification Letter Sent	Date of letter sent to the person notifying him/her of the overpayment (pursuant to HRS §78-12(e)).
E	Amount Overpaid this Month	Amount of new overpayments.
G	Amount Recovered this Month	Amount recovered in the current month.
H	Amount Referred to AG this Month	Amount referred to the AG in the current month.

Salary overpayments should be separated by collectible and uncollectible and totaled. All overpayments referred to the AG should be reported under uncollectible. Departments are to refer all overpayments to the AG once the individual has terminated employment and is no longer making repayments.

All monthly reports should be transmitted by memorandum from the director to the comptroller and should be submitted by the fifteenth of the following month. If a department is not able to meet this deadline, please notify the Pre-Audit Branch of any delay. Departments will no longer receive reminders for monthly submission, and instead, a notation will be made that no submittal was received.

II. Processing of Overpayments and Workers Compensation

Effective immediately for employees currently employed, the recovery for any new salary overpayments should be processed as an offset to the employee's semi-monthly gross salary and not as a deduction by the submission of a Salary Assignment/Cancellation form (SAFORM D-60). This change will eliminate the need for departments to accumulate deduction amounts in a trust account, to prepare a Treasury Deposit Receipt (SAFORM B-13) for the full amount of the recovery and to prepare a Notification of Payroll Adjustment form (SAFORM D-70) to record the recovery in the payroll system.

Also, effective immediately, in lieu of preparing a D-70 to re-class salaries to workers compensation (WC), departments should pay the WC amount using the Regular online Payroll Change Schedule and pay the remaining salary amount as "Base Pay" on the Regular online Payroll Change Schedule. To utilize this process, the employee should have sufficient semi-monthly salary to offset the WC amount and to cover payroll deductions and taxes (Exhibit B).

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 result in salary overpayment within the past six (6) months 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. 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. Request a Reversal - Retrieve State employee's net pay that has been forwarded to a bank or other assignee for deposit by requesting a reversal. The action should be used two (2) work days **before** pay day. All deduction assignees other than FIT, SIT, SS and Medicare taxes withheld should also be notified that a reversal is being requested and that the employee's account should not be credited.
2. Request a Deletion - Request an employee's pay may be totally deleted from an upcoming pay day. The request should be emailed to DAGSCentralPayroll@hawaii.gov no later than 8:00 a.m. three (3) work days **before** pay day to stop the pay. Any email received by 8:00 a.m. two (2) work days before pay day will be requested but may not successfully stop the pay. All deduction assignees other than FIT, SIT, SS and Medicare taxes withheld should also be notified that a deletion is being requested and that the employee's account should not be credited.

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 C, 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 D, Computation of Overpayment, and Exhibit E, Response to Salary or Wage Overpayment Notice.

For preparation of Exhibit D, Computation of Overpayment, payroll personnel with access to HIP can extract employee's pay information by going to Payroll for North America > Payroll Process USA > Produce Payroll > Review Paycheck or Review Self Service Paycheck. For payroll personnel without HIP 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) deposited to FHB account ending in x0497, prepare a Treasury Deposit Receipt, SAFORM B-13, and Notification for Payroll Adjustment and SAFORM D-70, if applicable. The Treasury Deposit Receipt should be completed with the following information:

TRUST PAYROLL CLEARANCE FUND 122 FY T 11 915 M 9200 050

(Note: FY = Fiscal Year)

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 \$500.00	2	Not less than \$100 per pay period
\$500.01 to \$1,000.00	4	Not less than \$250 per pay period

\$1,000.01 to \$3,000.00	8	Not less than \$250 per pay period Not more than one-quarter of the Employee's total compensation per pay period
\$3,000.01 to \$5,000.00	12	Not less than \$375 per pay period Not more than one-quarter of the employee's total compensation per pay period
Above \$5,000.00	18	Not less than \$416 per pay period Not more than one-quarter of the 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.

The recovery for salary overpayments should be processed as an offset to the employee's semi-monthly gross salary through Additional Pay.

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 F).
2. Send a copy of the payroll adjustment form to DAGSCentralPayroll@hawaii.gov, if applicable, to adjust withholding retirement contributions from those employees who are contributory or hybrid members of the ERS.

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 201-SERV or email hip.hawaii.gov.

Attachments:

- Exhibit A – Monthly Salary Overpayments Reporting
- Exhibit B – Re-Class Salary to Workers Compensation
- Exhibit C – Notification of Salary or Wage Overpayment
- Exhibit D – Computation of Overpayment
- Exhibit E – Response to Salary or Wage Overpayment Notice of (Date of Notification Letter)
- Exhibit F – Agreement to Apply Vacation and/or Compensatory Time Off Credits to Repay Salary or Wage Overpayment

To re-class salary to Workers Compensation:

Sample: W (830.00)
 B 830.00

Effective Immediately:

Two steps:

- 1) Pay WC \$830.00 on the WC PCS.
- 2) Subtract \$830.00 from the employee's salary. Pay difference as "B" type pay.

Example:

Pay \$830.00 on online PCS

If employee's salary to be paid is \$2,000.00, subtract the salary portion and pay the employee the difference as "B" (base pay) on the online PCS. Employee's deductions and taxes total \$518.00. There is sufficient salary (wages) to deduct the deductions and taxes without causing a deficit.

\$2,000.00 Semi Monthly Salary
- 830.00 Re-class salary amount to offset
\$1,170.00 "B" type pay on the online PCS

The taxes will be adjusted accordingly.

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

