

**CHAPTER 11**  
**SALARY OVERPAYMENTS AND ACCOUNTS RECEIVABLES**

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## CHAPTER 11

### SALARY OVERPAYMENTS AND ACCOUNTS RECEIVABLES

#### 1. GENERAL.

a. Authority. Government Code (GC) Section 19838 requires the state to recoup salary overpayments made to represented and excluded employees, and establishes reimbursement methods.

(1) Action to recoup an overpayment cannot be taken unless the action is initiated within three years from the date of the overpayment.

(2) The recoupable amount must not exceed 25 percent of the employee's monthly net disposable earnings (gross salary minus mandatory deductions). If multiple accounts receivables (AR) are collectively recouped from one pay period warrant, the accumulative recoupable amounts must not exceed 25 percent of the employee's monthly net disposable earnings. An exception to this would be allowed if the employee requests in writing to recoup an amount over 25 percent.

(3) Installment payments by personal check/cash or payroll deduction(s) are normally established to cover the same number of pay periods in which the error occurred (e.g., if an overpayment occurred for five pay periods, the payments are normally established/collected in five pay periods). However, when overpayments have continued for more than one year, the Department may require full payment within a year.

(4) In some cases, Human Resources Section, Personnel Transactions Unit (PTU), may need to cancel an employee's direct deposit to collect for an overpayment. It is the employee's responsibility to reestablish the direct deposit once the overpayment has been satisfied.

(5) If a collective bargaining Memorandum of Understanding (MOU) is in conflict with the provisions of GC Section 19838, the MOU shall be controlling.

b. Reasons Overpayments Occur. State employees may not legally receive more money than they earned for each pay period; however, inadvertent overpayments do occur. Overpayments occur for various reasons, such as: erroneous salary rates, effective dates, or time worked; disapproval by control agencies of appointments or promotions; coding or key entry errors; and release of various disability payments.

## 2. PROCEDURES.

a. Notification. The PTU is responsible for notifying employees of existing salary overpayments or impending ARs. Employees must be provided an opportunity to respond prior to the initiation of the collection process. Before initiating collection, PTU will send a CHP 456, Notice of Salary Overpayment, to the employee's commander.

b. Commander's Responsibility. The commander shall sign and date the CHP 456 to certify the CHP 456 was given to the employee, and ensure the following:

(1) The employee signs and dates the CHP 456.

(2) The original CHP 456 is returned to PTU within 15 calendar days from the date of the form.

(3) A signed and dated copy is provided to the employee and also placed in the command's confidential general personnel file.

(4) If the original CHP 456 is not returned to PTU within 15 calendar days from the date of the form, the Personnel Specialist will contact the command for the status.

(5) If the original CHP 456 is not returned to PTU within 14 calendar days from the date the command was contacted, a memorandum will be sent to the commander. The memorandum will provide notification that the CHP 456 was not returned to PTU and collection will begin by payroll deduction from the next pay warrant.

c. Employee's Responsibility.

(1) Certify receipt of the form by signing and dating the CHP 456. If the employee decides to have the PTU collect their outstanding overpayment through immediate payroll deduction, the employee is to check the applicable box and initial the selection.

(2) If requesting a repayment plan, the employee is to check the applicable box and initial the selection. The employee shall then contact their Personnel Specialist in PTU no later than 30 calendar days from the date the CHP 456 was signed.

d. Personnel Transactions Unit Responsibility.

(1) The Personnel Specialist will work with the employee to determine an acceptable repayment plan and take the necessary steps for implementation.

(2) The Personnel Specialist will establish an AR to recoup the overpayment by payroll deduction(s) if:

(a) A mutual agreement is made to recoup the overpayment by payroll deduction(s).

(b) A mutual agreement cannot be made on the method of collection and/or repayment plan.

(c) No response is received from the employee within 30 calendar days from the date the employee signed the CHP 456.

3. COLLECTION METHODS.

a. Payroll deduction(s).

b. Personal check/cash payment(s).

(1) The PTU will establish the AR, notify the employee of the net amount and AR number, and direct the employee to submit payment to Fiscal Management Section within 14 calendar days.

(2) If payment is not received within the required time frame, a memorandum will be sent to the employee notifying them the payment was not received and payroll deduction(s) will begin with the next pay warrant.

c. Use of leave credits.

(1) Per GC Section 19838, all civil service employees are eligible to participate in the AR Offset Leave Credit Use program. The California department of Human Resources has delegated authority to all departments to enter into a mutual agreement with their employees to use leave credits to satisfy specific overpayment conditions.

(a) If an employee requests the use of leave credits to satisfy an AR by mutual agreement, the following procedure shall be followed:

1 The employee shall check the third box on the CHP 456 indicating the desire to use leave credits to satisfy the overpayment.

Personnel Transactions Unit will deduct from the employee's Annual Leave/Vacation the number of credits needed to satisfy the overpayment.

a If the employee wants to use leave credits other than Annual Leave/Vacation, the employee must submit a signed written request to their commander indicating the leave credits to be utilized.

b The immediate commander shall determine if the employee has the available leave credits to satisfy the AR. The request shall then be attached to the signed copy of the CHP 456 and forwarded to PTU within 14 calendar days of the date noticed; otherwise, the AR will be recouped utilizing the employee's Annual Leave/Vacation.

(b) Leave balances and types available for use with this process:

1 Annual Leave, Compensating Time Off, Excess Hours, Holiday Credit, Personal Holiday, Personal Leave Program, Personal Leave Program 2003, Vacation, and Voluntary Personal Leave.

2 Sick Leave may only be used to satisfy ARs caused by errors in sick leave balances.

(c) Leave balance and types not available for use with this process:

1 Furlough Hours, Personal Development Day, Personal Leave Program 2010-2011, and Holiday Informal Time.

(d) The AR Offset Leave Credit Use process cannot be used to satisfy payment type 6 (Industrial Disability Leave [IDL]–Full Pay) and payment type N (IDL 2/3 Pay).

#### 4. PAYMENT OF TAXES.

a. Internal Revenue Service Ruling 70-177, 1970-1CB214, states that erroneous wage payments are subject to income tax at the time they are paid and, to the extent there has been no repayment of any overpaid amount to the employee within the same year, the employee's Form W-2, Wage and Tax Statement, must reflect the full amount received by the employee in that year.

b. When an AR is repaid by personal check/cash payment(s), the employee will not receive a tax reduction at the time of collection. The employee can recoup

overpayments of federal and/or state tax amounts, if any, when filing an income tax return for that year. Taxable gross earnings will be reduced in the year that monies to satisfy the AR are collected, not in the year the overpayment occurred.

c. When an AR is repaid by payroll deduction(s), the taxable gross of the payment to which the deduction is applied will be reduced by the taxable gross amount of the AR before federal and state taxes are computed. Therefore, it is to the employee's immediate advantage to have an AR collected by payroll deduction.

5. SEPARATING EMPLOYEES. Any outstanding monies owed the Department may be deducted from the employee's final pay warrant upon separation. If the money owed to the employee upon separation is insufficient for full repayment, the Department has the right to proceed with legal action to recoup the amount owed.

6. RESOLUTION OF OVERPAYMENT ISSUE. Overpayments that cannot be resolved by the methods identified above may be resolved through the grievance settlement process.



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