

Underpayments and Overpayments

A. General Information

Underpayments and overpayments can occur for many reasons. This practice applies regardless of the reason for the underpayment or overpayment. When an employee is underpaid or overpaid, the department fiscal officer will be responsible for communicating with Payroll Services. Payroll Services will communicate with the employee and copy the department fiscal officer.

Departments should make all efforts to ensure personnel are paid correctly when the original paycheck is issued.

Excessive underpayments or overpayments in a department may indicate an internal control weakness which may need to be reviewed through an internal audit and may result in additional charges for processing the correcting transactions.

B. Underpayments

Disbursement of underpayments to an employee shall include all underpayments made within a period of two (2) years prior to the determination of error.

Underpayments will be corrected on the next regular paycheck after verification and notification to Payroll Services.

The department fiscal officer will be responsible for verifying and documenting the underpayment and notifying Payroll Services of any underpayment amount and any applicable deductions.

C. Overpayments

Recovery of overpayments from an employee shall include all overpayments occurring not more than one (1) year prior to the determination of error. If the overpayment is the result of under-withheld taxes, the lookback period may be extended to comply with Federal or State laws.

Overpays must be corrected in the current year so that the employees W-2 will be correct. Amounts paid in future years will be increased to include the employee's share of social security and Medicare, federal and state withholding, and any unrecoverable unearned benefit costs or retirement contributions paid by the institution (the gross amount) of the overpayment. The employee will be responsible for recovering any taxes related to the repayment on their personal income tax returns as described in IRS Publication 525.

The employee will be responsible for repaying the net amount during the same calendar year the overpayment occurred. Payroll Services will calculate the net or gross amount to be repaid.

If the employee is still employed, Payroll Services will e-mail the calculation and Overpayment Agreement form to the department fiscal officer and email notice to the employee in accordance with notification requirements in Oklahoma Title §74-840-2.19.B.8. The employee needs to read, designate the amount withheld per pay period, sign, date, and return the form to Payroll Services. This is a courtesy to give the employee an option of repaying the amount through payroll deductions over up to 3 pay periods rather than deducting the total amount from the next paycheck.

The employee may also indicate an intent to protest the overpayment findings on the Overpayment Agreement form in accordance with notification requirements in Oklahoma Title §74-840-2.19.D.1.d.

If the Overpayment Agreement form is not returned by the next payroll timesheet/leave report deadline or other arrangements have not been made, Payroll Services will withhold the full amount from the employee's next paycheck.

The overpayment must be withheld from the employee's future paychecks not to exceed 3 pay period deductions. It can only be withheld in the same calendar year that the overpayment occurred. For an overpay that is identified in December, the gross amount will be turned over to the employee's bursar account for collection unless the employee makes special arrangements to repay the amount separately from the payroll system before December 31.

If an employee terminates employment, any outstanding amounts will be withheld from the employee's final paycheck or leave payout.

If the employee is terminated, the amount due from the employee (gross or net) will be determined in the same manner as above. The deadline for repaying the net overpay in the same calendar year is November 30th. The employee must repay the gross amount if paid after November 30th or in a future calendar year.

If the employee is terminated prior to the discovery of the overpayment, Payroll Services will be responsible for contacting the former employee and arranging repayment. Payroll Services will mail notice to the former employee in accordance with notification requirements in Oklahoma Title §74-840-2.19.8. The amount due will be due in one payment payable to Oklahoma State University and mailed to Payroll Services.

Any uncollected overpayments outstanding on December 31 of the year of overpayment will be turned over to the bursar's account for the gross amount.

If the overpayment is discovered after the end of the calendar year when it was paid, the gross amount will be turned over to the employee's bursar account for collection.

The employee has a right to protest the overpayment determination in accordance with Oklahoma Title §74-840-2.19.D.1.d. To protest the overpayment prior to amounts withheld from the employee's paycheck, the employee must complete the Overpayment Agreement form, indicate an intent to protest the overpayment and return the form and supporting documentation by the next payroll timesheet/leave report deadline.

If the employee did not indicate the intent to protest on a timely submitted Overpayment Agreement form and the overpayment is withheld, the employee may protest the overpayment within 30 days of the date of the original notification to the employee.

To protest the payment, the employee must submit the Overpayment Protest form detailing why the amount in question was not an overpayment and requesting return of any withheld funds related to the overpayment along with supporting documentation within 30 days of the notification.

D. Regulatory References

This payroll services practice is intended to comply with federal and state laws and rules. Specific guidance related to underpayments and overpayments may be found in the IRS Publication 15 – *(Circular E), Employer's Tax Guide, Wage Repayments*, US Law 26 CFR § 31.6413(a)-2 - *Adjustments of Overpayments*, Department of Labor, FLSA2004-19NA *Application of the Fair Labor Standards Act (FLSA) to Reductions from an Employee's Pay to Recoup Overpaid Money Opinion Letter*, and Oklahoma Title 74. State Government §74-840-2.19.- *Payroll Claims*.