



## ES PROCEDURES FOR OVERPAYMENT RECOVERY

Effective: 7/1/2012

Responsible Office: Employee Services (ES)

Approved: ES Director

Application: All Employees of the University of Colorado

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### Policy

The University of Colorado will follow the guidelines provided by the Internal Revenue Service, Social Security Administration, and State of Colorado in the recovery and reporting of overpayments. The procedures identified within this policy describe how overpayments are to be recovered, based on the applicable governing regulations.

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### Scope

Overpayment occurs when compensation that is not owed to the employee is paid in error. Overpayments include (but are not limited to) excess wage and salary payments, erroneous refunds, and under-withheld voluntary or involuntary deductions for retirement programs, insurance programs, including billed receivables, and miscellaneous deductions.

This policy applies to all employees paid by the university. So as not to put the university at risk of non-compliance, attempts will be made to recover all overpaid funds.

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### Governing Regulations

The university's policy will be in accord with:

1. Internal Revenue Service requirements -- per **IRS Publication 15 – Employer's Tax Guide, Wage Repayments section:**

*If an employee repays you for wages received in error, do not offset the repayments against current-year wages unless the repayments are for amounts received in error in the current year.*

2. State of Colorado Fiscal Rule 9-4 – “**Overpayments to State Employees**” (**Authority: 24-30-201 C.R.S**):

*Through error, a state employee may be paid more than is due. When the error is detected, provisions shall be made for the repayment of the overpayment.*

*If the overpayment is nominal, it shall be deducted from the employee's next paycheck. However, in some cases the overpayment may be significant and require a repayment schedule extending over a period of time. The chief executive officer, or a delegate, of the state agency or institution of higher education shall establish a repayment schedule based on the particular facts*

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*involved in each case. The State Controller shall approve any repayment schedule extending for more than six months.*

*An employee's maximum liability for repayment, should an error go undetected for over a two year period, shall be limited to the total amount of the overpayment for the first two years in which the employee was overpaid.*

3. State Personnel Director's Payroll Deduction Policy – **C.R.S. sec. 24-50-104(8)(c) – POLICY:**

*State agencies and institutions of higher education shall not permit or process payroll deductions except as expressly authorized in this Policy. Payroll deductions are permitted only when:...(4) The deduction is for the purpose of facilitating the reimbursement of monies owed to the state from an employee; (e.g. higher education tuition, uniforms, salary overpayments).*

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**Responsibilities**

Employees are responsible for: (1) Reviewing their paychecks and pay advices for accuracy. (2) Promptly reporting any discrepancies to their supervisor and/or appointing authority. (3) Promptly repaying all overpayments made by the University to the employee, regardless of who made the error. Delay in repaying and/or processing of overpayments can result in additional amounts to be recovered from the employee (see the "Amounts to be Recovered" section below). (4) Assuring that address and contact information in the HRMS system is current and accurate. ES overpayment correspondence is sent to the mailing address shown in the HRMS system. Current employees should report changes of address to the hiring department so that corrections to the HRMS system can be made. Former employees should contact ES for assistance.

The employee's hiring department is responsible for: (1) Preventing wage overpayments. (2) Promptly reviewing payroll registers in order to identify errors in time to correct them before they become overpayments. (3) Timely correction of the employee's compensation records (if applicable) when an overpayment occurs. (4) Notifying the employee affected that an overpayment has occurred. (5) Written notification to Employee Services (ES) using the required [Notice of Overpayment Adjustment Form](#). (6) Making changes to the HRMS address and contact information, as requested by the employee. (7) Reviewing any objections from the employee regarding salary amounts overpaid and resolving any discrepancies with the employee. (8) Notifying ES in writing of any changes to the overpaid amount. The employee's hiring department must not: (1) Collect the overpayment from the employee. (2) Arrange recovery schedule with the employee.

Employee Services (ES) is responsible for: (1) Recording receipt of the Notice of Overpayment Adjustment Form into the overpayment database. (2) Confirming the gross salary overpayment and/or incorrect deduction or refund reported. (3) Calculating the employee's net overpayment due, regardless of the source of error. (4) Determining what repayment options are consistent with University policy. (5) Managing the recovery process, including: correspondence, repayment arrangements, receipt of funds in compliance with accepted fiscal practices, crediting the department after overpayment is recovered, and initiation of collection processes when necessary. (6) Completing and mailing a W-2C, if applicable. (7) Reconciling the overpayment account.

**Amounts  
to be  
Recovered**

The amount to be recovered from the employee includes the net amount overpaid, with whatever additions or limits are appropriate as listed below:

- If recovery is not completed within the same tax year in which the overpayment occurred, amounts withheld for federal and state income tax that cannot be recovered from the Internal Revenue Service and/or State of Colorado must be repaid by the employee (see the “Repayments Crossing Tax Years” section below).
- If the recovery time allowed by the Social Security Administration is exceeded, amounts withheld for social security (OASDI) and Medicare that cannot be recovered from the Social Security Administration must be repaid by the employee or employing department (see the “Repayments Crossing Tax Years” section below).
- If the employee has closed a retirement account (PERA, 401(a), 403(b), 457, etc.) before amounts over-deposited have been reclaimed by ES, these amounts (including any employer contributions overpaid) must be repaid by the employee.
- If amounts deducted for benefit or other purposes have already been paid and cannot be recovered from the payee/carrier because of the employee’s action or inaction, they must be repaid by the employee. If they cannot be recovered from the payee/carrier because of action or inaction by a university department, that department will be responsible for repaying these amounts.
- Overpayments not repaid in a timely manner may be referred to State Collections. When this occurs, the employee becomes liable for the gross amount overpaid plus any fees and penalties assessed by State Collections.
- Limits on amounts to be recovered: Per State Fiscal Rule 9-4, *An employee’s maximum liability for repayment, should an error go undetected for over a two year period, shall be limited to the total amount of the overpayment for the first two years in which the employee was overpaid.*

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**Repayment  
Options**

Forms of repayment: Employee repayments must be made either by personal check (made out to the University of Colorado) or by payroll deduction. ES cannot process wire transfers or credit card transactions. Cash payments are discouraged for the employee’s protection.

Overpayment recoveries which cross tax years may cause additions to the amount the employee has to repay (see “Amounts to be Recovered” above) if the employee is no longer employed by the university or has no taxable wages when overpayment recovery is initiated. It is usually to the employee’s advantage to request that payroll deduction and repayment plans be shortened to finish in the same tax year in which the overpayment occurred. If the employee is still active when overpayment recovery is initiated, amounts crossing tax years will not be added unless the employee becomes inactive or has no taxable wages.

Active employees with current salaries: ES will by default set up payroll deductions according to repayment schedule guidelines as below. Employees may opt to pay by personal check(s) or to shorten the length of their repayment schedule by contacting ES.

Terminated employees and those with insufficient salary for payroll deduction must pay by personal check. At the discretion of ES a payment plan may be set up.

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**Repayment Schedules**

Payroll deduction plans will be set up for active employees based on comparison of the gross amount of the overpayment to the employee's gross monthly salary or bi-weekly wage payment, as indicated in the chart below. If the employee's pay is not sufficient for full deductions, the employee must pay the balance due by personal check at the end of the payroll deduction period. Employees may elect payment by personal check or a shorter deduction period by contacting ES (a shorter deduction period may be advisable to prevent additional money being owed due to crossing of tax years).

Any changes to the original overpayment amount may require an adjustment to the repayment schedule, based upon the new values.

<b>If gross overpayment is ___ of employee's gross monthly salary or bi-weekly wage payment</b>	<b>Overpayment will be deducted equally from the next:</b>
20% or less	1 available wage payment
20.1% to 40%	2 available wage payments
40.1% to 60%	3 available wage payments
60.1% to 80%	4 available wage payments
80.1% to 100%	5 available wage payments
100.1% and above	6 available wage payments

Payments by personal check are required within 30 days of the ES overpayment notice being sent to the employee.

Payment plans may, at the discretion of ES, be negotiated with employees who wish to make multiple payments by personal check.

Payment and payroll deduction plans exceeding a six-month pay period must be approved by the state controller per State Fiscal Rule 9-4. Requests for such plans must be made through ES and require a business case which must be approved and submitted to the state controller via the university Treasurer's Office. All requests will be reviewed by the payroll administration manager prior to submission to the Treasurer's Office.

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**Uncollected Overpayments**

Payroll deduction plans will be discontinued and payment of remaining balance by personal check required if the employee receives no pay for two consecutive pay periods. Notice will be sent to the employee that payment by personal check is required.

Payment plans will be discontinued and the remaining balance will become immediately due and payable if payments are not made in the amount and frequency agreed. Notice will be sent to the employee that full payment by personal check is required.

Payments by personal check for unpaid balances are required within 30 days of the ES notice being sent to the employee, or within 30 days of the end of the payroll deduction plan or payment plan. If such payment is not received, notice will be sent with a warning that the file may be referred to State Collections if payment is not received in 14 days. If payment is not received within this time period the uncollected overpayment will be reported to State Collections in writing.

Uncollected overpayment recoveries \$50 or fewer will be reviewed with the department for instructions on pursuing collection.

If an employee leaves employment and subsequently returns, any uncollected overpayment will be scheduled to be deducted by payroll deduction plan. Correspondence will be sent to employee's mailing address on record stating the timing and amount of payroll deductions.

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## **Repayments Crossing Tax Years**

IRS Publication 15 (Circular E), Employer's Tax Guide, "Wage Repayments," states:

*If an employee repays you for wages received in error, do not offset the repayments against current-year wages unless the repayments are for amounts received in error in the current year.... The wages paid in error in the prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee is not entitled to file an amended return (Form 1040X) to recover the income tax on these wages. Instead, the employee is entitled to a deduction (or credit in some cases) for the repaid wages on his or her income tax return for the year of repayment.*

Effect on withholding taxes: In accordance with IRS requirements as stated above, ES may adjust taxable income and tax withholding balances only for the amount of repayment received in the same tax year in which the overpayment occurred. Therefore, when recovery of an overpayment crosses into a subsequent tax year, the amount due from the employee is increased by withholding taxes (both federal and state) associated with any unpaid balances at the end of the tax year. ES will send a "Letter of Credit for Income Tax Purposes" to each employee in this situation in the January following the tax year in which the repayment occurred, showing the amount repaid in that year.

Effect on social security (OASDI) and Medicare taxes: The Social Security Administration allows correction and recovery of these tax balances for the current year and the three previous tax years. ES will file these corrections by generating and filing a W2-C. If the allowable recovery time frame is exceeded, the overpayment amount due is increased by these tax amounts. If the time frame was exceeded because of the employee's action or inaction, these taxes must be repaid by the employee. If the taxes cannot be recovered from the Social Security Administration because of action or inaction by a university department, that department will be responsible for these amounts.

Resources for employees: To determine how to account for these repayments when filing their taxes, employees may review I.R.S. Publication 525 – Repayments Section, Form 1040 and Schedule A Instructions, or contact their personal tax advisor or the Internal Revenue Service for assistance.

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## **Crediting the Department**

Recovered funds are credited back to the department when the overpayment is completely recovered. Partially recovered funds are credited back to the department whenever an overpayment recovery crosses into a new fiscal or calendar year. Credits cannot be made prior to repayment by the employee, so departments must make appropriate accommodations for funding source issues. If amounts deducted for benefit or other purposes have already been paid and cannot be recovered from the payee/carrier because of action or inaction by a university department, that department will not receive credit for them.

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