

755.9 WAIVER OF CLAIMS FOR ERRONEOUS PAYMENT OF PAY**.91 PURPOSE**

This section provides the procedural standards and regulations governing the waiver of claims of the Department against an employee or former employee arising out of an erroneous payment of pay, on or after July 1, 1960, the collection of which would be against equity and good conscience and not in the best interests of the United States. These provisions are authorized by Public Law 90-616 and are subject to standards as issued by the Comptroller General.

.92 DEFINITIONS

The term "pay" means salary, wages, pay, compensation, emoluments (does not include rental allowances), and remuneration for personal services. It includes overtime pay; night differential; Sunday and holiday pay; payment for accumulated, advanced (unearned) and accrued leave; and severance pay. It does not include payments for expenses of (a) travel and transportation and (b) transportation of household goods or other relocation expenses.

.93 CONDITIONS FOR WAIVER OF CLAIMS

The waiver of collection of claims against employees, whether in whole or in part, will be accomplished in accordance with criteria set forth in this subsection and will generally be limited to claims arising out of the issuance of a personnel action, that has classified an employee in an incorrect salary level or step rate, and to claims involving the overpayment of leave and severance pay. Excluded from consideration for waiver of collection are overpayments resulting from errors in timekeeping, keypunching, machine processing of time card or time credit, coding, and any typographical errors that are adjusted routinely in process of current operations. Exclusions from consideration of waiver depend on the circumstances involved and are not necessarily limited to these types of errors. Overpayment of pay resulting from the Departmental policy of advancing annual leave at the beginning of the year will not be considered for waiver. The following conditions must exist in considering a claim for waiver:

- a. The claim arises out of an erroneous payment of pay made through administrative error to an employee or former employee on or after July 1, 1960, except that waiver action may not be taken after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered or after October 21, 1971, whichever is later.
- b. Collection action under the claim would be against equity and good conscience and not in the best interests of the United States. Generally these conditions will be met by a finding that the erroneous payment of pay occurred through administrative error and that there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee, former employee or any other person having an interest in obtaining a waiver of the claim.
- c. Any significant unexplained increase in an employee's pay which would require a reasonable man to make inquiry concerning the correctness of his pay would preclude a waiver when the employee or former employee failed to bring the matter to the attention of appropriate officials.
- d. Waiver of overpayments of pay necessarily must depend upon the facts existing in the particular case. The facts upon which a waiver is based must be recorded in detail and made part of the written record.

.94 REQUESTS FOR WAIVER OR APPLICATION FOR REFUND

.941 All requests for waiver of claims for overpayment of pay and application for refund of amounts previously paid will be submitted to the employee's or former employee's postmaster or installation head. Postmasters or

installation heads will submit such requests for waiver of claims against them, directly to their compensation center. Form 3074, Request for Waiver of Claim for Erroneous Payment of Pay, filed in triplicate, will be used by all claimants requesting waiver of these claims. Postmasters and installation heads receiving such requests will contact their regional controller who will supply them the necessary Forms 3074. It is the claimant's responsibility to supply as a minimum, the following essentials:

- a. Information necessary to fully identify his existing or former debt by stating the amount, period covered and the nature of the erroneous payment of pay.
- b. A copy of the invoice and/or the demand letter received. If neither of these are available, a statement establishing the date the erroneous payment was discovered.
- c. A statement of the circumstances which the claimant feels would justify the waiver of the Department's claim.
- d. If repayment has been made, the dates and amounts repaid.

.942 The postmaster or installation head shall investigate the claimant's statements made on each Form 3074 and prepare a report of his investigation on the reverse. The compensation officer will investigate claims by a postmaster or installation head. The report will include, but is not limited to:

- a. All additional facts or circumstances that will clarify and amplify the statement of facts made by the claimant, or facts overlooked or incorrectly stated by the claimant on the claim form, including a description of how the overpayment occurred.
- b. If available, a listing by pay periods of the gross amount and rate paid the employee or former employee and the gross amount that should have been paid.
- c. A statement as to whether there is any indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee, former employee or any other person having an interest in obtaining a waiver of the claim.
- d. A copy of the invoice or notice to the employee or former employee of the amount requested to be repaid to the Department should accompany the Form 3074. If neither of these items is available, a statement establishing the discovery date of the Department's claim should be included.
- e. Prints of pertinent Forms 50, Notification of Personnel Action, Forms 1303, Salary Change Notice, and correspondence having a bearing on the claims should be obtained from the employee's or former employee's official personnel folder and included with the Form 3074.
- f. Such other information as may assist the regional controller, higher authority, and/or the Comptroller General to determine whether collection action under the claim would be against equity and good conscience and not in the best interests of the United States.

.943 The application for refund shown at the foot of Form 3074 should be completed by the claimant when he has made payment toward the liquidation of the amount of overpayment requested to be waived.

.95 SUBMISSION OF REQUESTS FOR WAIVER, FORM 3074

The postmaster shall forward the employee's or former employee's request for waiver on Form 3074 and his report of investigation as specified by section 755.942 to his compensation center for review for accuracy and completeness. The compensation officer will forward the claim with any pertinent comments requiring consideration, to the regional controller for examination and recommendation. See Postal Manual, Part 758, Compensation Centers, for identification and areas served by these centers.

.96 DISPOSITION OF CLAIMS

The regional controller, upon consideration of the evidence and reports submitted, including comments of the compensation officer and/or manager, regional compensation section, will recommend to the Director of the appropriate postal data center that collection of the Government's claim either be waived or that the request for waiver be rejected and returned to the postmaster. The Director, PDC, will determine cases aggregating the gross amount due from the employee of \$500 or less except (1) claims which are the subject of a GAO exception; (2) claims involving an interpretation of law; (3) claims involving doubt as to the application of the definition of "pay." If a PDC Director disagrees with the recommendation of the regional controller, the PDC Director will forward the case to Headquarters for advice. Requests for waiver of claims aggregating the gross amount due from the employee of more than \$500 will be determined by the Comptroller General. The gross amount of the erroneous payment, without regard to any repayments, determines whether the Director, Postal Data Center, or the Comptroller General will decide the requests for waiver.

.97 APPLICATION FOR REFUND NOT COMPLETED ON FORM 3074

If the application for refund was not completed on Form 3074, for a claim that was waived, the Director, Postal Data Center, shall notify the employee (or former employee) whose application has been favorably acted upon, that if a refund is due, he may apply for it within 2 years from the date of the waiver.

