

Sonoma County Office of Education
Business Services

EXTERNAL PAYROLL AND FINANCE UPDATES

DEBUG MEETING: September 27, 2019

UPDATES:

Issue: Same Day Meal Reimbursements or Allowances:

IRS response faxed 03/04/2015: *"You occasionally reimburse at a per meal per diem, and/or at actual verified cost, employees for their meals incurred while traveling out of the area for your business, which does not involve overnight travel. Overnight travel generally means that the employee must be traveling away from the general tax home area substantially longer than an ordinary day's work and needs to obtain substantial sleep or rest to meet the demands of the work while away from home.*

The IRS Code provides that meals are non-deductible personal expenses, unless paid or incurred during overnight travel away from a taxpayer's (or employees) ordinary place of business for business purposes. When an employer pays an employee's meals while on business travel that does not meet the "overnight rule" described above, in the form of actual cost reimbursement or a per meal per diem, the payment is deemed to be a payment of an employee's personal living expenses and thus a taxable fringe benefit. As a taxable fringe benefit, the payment is required to be included in the employee's wages for Federal employment tax purposes (See Internal Revenue Code Section 132 and 262).

Exceptions to the preceding general rule regarding meal allowances and reimbursements not involving travel away from home overnight are as follows:

- 1. Reimbursements or allowances provided to employees while entertaining customers if the entertainment is directly-related or associated to a substantial business discussion for a clear business reason in a clear business setting (see Income Tax Regulations Section 1.274-2(c) and (d));*
- 2. Reimbursements for meal expenses directly related to and necessary for attending business meetings or conventions of certain exempt organizations (including chambers of commerce, business leagues, trade or professional associations) when attendance is required by the employer (Regulations Section 1.274-2(d)(3)). For this exception to be applicable, the employer-paid meal must be provided at the site of the meeting or convention, with the employee not eligible for meal reimbursement if they take their meal elsewhere; or,*

3. *De minimis occasional meal reimbursement provided the following conditions are met (see Regulations Section 1.132-6(d) (2)):*
- a. *The meal is reasonable in value and is not provided regularly or frequently, **and**;*
 - b. *Overtime work necessitates an extension of the employee's normal work schedule, **and**;*
 - c. *The meal is provided to enable the employee to work overtime. Meals provided on the employer's premises that are consumed during the overtime period, or meal money expended for meals consumed during that period, satisfy this condition.*

Reimbursements for employees' lunches' incident to out-of-area travel, not involving an overnight stay will not qualify for this exception."

It was recommended we "should prospectively either (1) not reimburse employees for meals incurred during none overnight business travel unless one of the preceding exceptions are applicable, or (2) include these meal reimbursements in the recipient employee's wages for Federal employment tax purposes."

For additional resources, please see IRS Publication 15b and 5137.

Source Document Escape Attachments:

Effective immediately, our department has begun attaching source documents to Escape journals created, providing LEAs the necessary back for viewing.

Revenue Posting:

We are in the beginning stages of creating journal templates from source documents for importing and posting revenue. As such, we will be better able to post revenue where it is most appropriate for the LEA, reducing the amount of time spent to move funds. As we move through this process, we will be reaching out to you with a list of revenue sources for you to indicate where you would like them to be appropriately posted.

NEW YEAR REMINDERS (please refer to External Fiscal Services Payroll & Retirement Manual):

Independent Contractor vs Employees (pages 38-42):

Under the new ABC test, a worker is presumed to be an employee unless the employer can show all three conditions of the ABC test are met.

Hiring CalSTRS Retirees (pages 99-105):

See Employer Directive 2018-01 dated March 27, 2019 and use as a checklist for when hiring back a CalSTRS retiree. When hiring a CalSTRS retired annuitant for which it has been determined meets all three conditions of the ABC test as an independent contractor, additional forms need to be completed.

Ed Code 45134 prohibits employment in a classified position while a CalSTRS member is retired from service. The only exception is employment as a teacher's aide in certain circumstances as indicated below:

- As an instructional aide in a class with high pupil-teacher-ratio or an aide to provide one to one instruction in remedial classes or
- For underprivileged students

Hiring CalPERS Retirees (pages 146-159):

See Employer Checklist for Hiring CalPERS Retirees Effective January 1, 2013. Remember CalPERS retirees can only be hired back for a limited duration (960 hours limit per fiscal year) and either during an emergency or because the retiree has skills needed to perform work. Likewise, specific to schools, a single interim appointment to a vacant position during recruitment is within government code. Bear in mind, the retiree is still limited to work 960 hours in the fiscal year and there must be some showing the retiree has the skill needed to perform the work.

Please also be mindful that CalPERS retirees cannot receive any other form of compensation in addition to the hourly pay rate. Such additional compensation can impact the retiree's retirement benefit.

Hiring Foreign Teachers (pages 59-62):

Individuals admitted to the US under an F-1, J-1 (most common), M-1 or Q-1 visa are generally exempt from both social security (OASDI) and medicare taxes for 2 calendar years from the calendar year of entry. After which they become Resident Aliens and are liable for social security and medicare taxes. There are special withholding rules and special computation of withholding for non-resident alien employees. Individuals may also qualify for a Tax Treaty Exemption if a treaty between the US and their home country actually exist.

Exchange and Sojourn Teachers (pages 63-65):

If a teacher continues working beyond the terms of the exchange or sojourn formal program, the membership exclusion to CalSTRS does not apply.

Salary Schedules Requirements for Creditable Compensation (pages 124-135 & 167-172):

For CalSTRS: See Ed Code 22119.5 for Creditable Compensation for 2% @ 60 and Ed Code 22119.3 for Creditable Compensation for 2% @ 62.

For CalPERS: See Circular Letters 200-050-12, 200-056-11, 200-050-16 and 200-064-17.

Cash In-Lieu (page 54):

Cash In-Lieu compensation should run through payroll and all applicable payroll taxes apply.

Calculating OT Pay Rate (pages 43-49):

For purposes of calculating the overtime rate of pay, the regular pay rate must include all forms of regular monthly compensation including longevity, cash in-lieu, degree stipend and most other regular additions to base salary. For purposes of calculating the overtime rate, the regular rate of pay is the total remuneration for employment in any workweek divided by the total hours actually worked by the employee in that workweek (there is an example of this calculation on page 44).

Domestic Partners (pages 54-58):

See Legal Update Memo No 30-2010 regarding the taxation of domestic partner fringe benefits. Depending on whether the employee's domestic partner is Registered or Non-Registered, requires different State taxation.

Last February I requested SCLS issue an updated Legal Update on Domestic Partners. Once it is issued, we will add it to the manual.

Confirm Missing Payroll:

I sent out an email last week addressing CalPERS retirement appointment reconciliation:

1. Retired annuitants must be enrolled into CalPERS within 30 days of the effective date of hire and the retiree's payroll must be reported to CalPERS within 30 days following the last day of the pay period in which the retiree worked. A \$200 late fee will incur for each offense for each retiree per month.
2. LEAs must confirm missing payroll to CalPERS on a monthly basis. Active members with no reported payroll within 30 days of the earned period end date and with no confirmed missing payroll, will be subject to projected contributions and a \$200 late fee.
 - a. Depending on the size of the LEA, projected contributions can be considerable
 - b. Generally, once the missing payroll is confirmed, the projected contributions will be removed

CALENDAR YEAR END REMINDERS:

W2 Preparation:

1. Run the Pay31 W2 Errors report after each payroll and address errors now rather than later. There might be prior year payroll tax errors that cannot be corrected through payroll and will require manual edits to the W2. I will work with individual LEAs on these in January.
2. When an incorrect Social Security Number is discovered, email helpdesk@scoe.org and cc me. Do not send copy of SSN through email (see page 6 of W2 Reporting 2018 Manual)
3. When final payment is made to a deceased employee's estate in the same year the employee passed away, when creating pay history, a special addon may be necessary to decrease FIT and SIT subject wages. Please notify me of deceased employees and I can work with you to ensure correct handling of payroll taxes. For detailed instructions, see page 24-25 of W2 Reporting 2018.
4. OASDI set-up errors (OASDI wasn't deducted and should have been, or OASDI was deducted and shouldn't have been), requires special handling to correct. Best practice is to run and review the Pay03 by Person Type. This serves as a quick review of employees with OASDI deductions.
 - a. Generally, classified employees should have OASDI deducted (there are exceptions depending on the LEA's Section 218 Agreement and/or whether the classified employee elected to remain in CalSTRS or if the classified employee is a CalPERS retiree)
 - b. Generally, Certificated CalSTRS members should not have OASDI deducted unless the certificated employee elected to remain in CalPERS or is a CalSTRS retired annuitant.

1099 Preparation:

1. Be mindful of the ABC test. Under the ABC test, a worker is presumed to be an employee unless the employer can show all three conditions of the ABC test are met (see pages 38-42 of External Fiscal Services Payroll & Retirement Manual).
2. Foreign and California Nonresident vendors require special Escape set up and special payment and reporting. For detailed instructions, see Foreign and CA Nonresident Alien Vendors documentation posted on SCOE's website.
3. Cash In-Lieu compensation should run through payroll and all applicable payroll taxes apply.
5. When final payment is made to a deceased employee's estate after the year the employee passed away, pay history is not created. Vendor (Employee's Estate) should be set up for 1099=Yes and payment is run through Accounts Payable. Please notify me of deceased employees and I can work with you to ensure correct handling. For detailed instructions, see page 16-17 of 1099 Reporting 2018.