

CHAPTER 4-40

WAIVER OF OVERPAYMENT OF PAY

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4-40-00 PURPOSE

This legislation (**P.L. 90-616; 5 U.S.C. §5584**) was enacted on October 21, 1968 to authorize a systematic procedure for the Comptroller General or the head of an executive agency to waive, in certain cases, claims of the United States arising out of erroneous payments of pay on or after July 1, 1960 to civilian employees of executive agencies, the collection of which would be against equity and good conscience **and not in** the best interests of the United States.

4-40-10 DELEGATION

The Secretary has delegated his authority under the Act to the Department Claims Officer.

4-40-20 THE ACT

**§5584. Claims for overpayment of pay**

(a) A claim of the United States against a person arising out of an erroneous **payment** of pay, on or after July 1, 1960, to an employee of an executive agency, the collection of **which** would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or part by-

(1) **the** Comptroller General of the United States; or

(2) the **head of** the executive agency when-

(A) the claim is in an amount aggregating not more than \$500;

(B) the claim is not the subject of an exception made by the Comptroller General in the account of **any** accountable official; and

(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

(b) The Comptroller General or the head of the executive agency, as the case may be, may not exercise his authority under this section to waive any claim--

(4-40-20 continued)

(1) **if, in** his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim; or

(2) after the expiration of three years **immediately following** the date on which the erroneous payment of pay was discovered or three years **immediately following** the effective date of this section, whichever is later.

(c) A person who has repaid to the **United** States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous **payment, the** collection of which is waived under this section, is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the **United** States."

#### 4-40-30 REGULATIONS AND INSTRUCTIONS

A. The Comptroller **General**, issued Regulations on December 26, 1968 providing Standards for Waiver of Claims for Erroneous **Payment** of Pay (4 **CFR**, Ch. I, Subchapter G, Parts 91-93). See Department Personnel Manual, Exhibit X550-8-1.

B. Instructions.

Department procedures for requesting waivers are published in the Department Personnel Manual, Instruction **550-8**.