Recoupment of Overpayments of Salary by an Employer from an Employee

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1. Introduction

This manual sets out Revenue's position regarding the recoupment of an overpayment of emoluments by an employer from an employee.

2. Recoupment of overpayment

2.1 General Position

Any recoupment of an overpayment of emoluments paid to an employee must be recovered on a gross pay basis, i.e. before any deductions such as income tax, Universal Social Charge (USC) and Pay Related Social Insurance (PRSI).

2.2 Current-year overpayment recoupment

Where the overpayment is being recouped by means of a deduction from emoluments in the current year, the gross amount of the overpayment is deducted from gross emoluments. Using this method, any tax rebate due to the employee will be generated and paid to the employee through the payroll. Pension, Pension Related Deduction (PRD), USC and PRSI contributions should also be adjusted accordingly, where appropriate.

Example 1:

In July 2020 it was discovered that Adam had been placed on the wrong pay scale after the award of an increment in March. This had resulted in Adam being overpaid for 17 weeks with a total gross overpayment of €357.

As the overpayment was discovered in the year in which it was made, it was agreed between Adam and his employer that he would repay the overpayment in 2020 over a 17 week period. Therefore, the gross amount overpaid to Adam is recouped by deducting €357 from his gross pay.

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Prior to discovery of overpayment:	On discovery of overpayment:
17 weeks March 13th – July 3rd Gross Pay: 618.00 p.w. 618.00 Gross Tax: 123.60 Credit: 63.46 Net Tax: 60.14 USC: 14.50 PRSI: 24.72 Total Deductions: 99.36 Net Pay: €518.64 p.w.	Applies for 17 weeks July 17th - November 6th Gross Pay: 597.00 p.w.(Correct scale) 597.00 O/P Recoupment: 21.00 Pay: 576.00 576.00 Gross Tax: 115.20 Credit: 63.46 Net Tax: 51.74 USC: 12.61 PRSI: 23.04 Total Deductions: 87.39 Net Pay: € 488.61p.w. As Adam paid income tax/USC/PRSI on the overpayment of €357, any refund for this will also be made by the employer.

Table 1: Extract from a payroll submission before discovery of overpayment.

Pay date	Gross pay	Pay for Income Tax	Income Tax paid	Pay for USC	USC paid	Pay for PRSI	Ee PRSI paid @4%	Er Prsi paid @11.05%
13/03/2020	€618.00	€618.00	€60.14	€618.00	€14.50	€618.00	€24.72	€68.29

Table 2: Extract from a payroll submission following discovery of overpayment.

Pay date	Gross pay	Pay for Income Tax	Income Tax paid	Pay for USC	USC paid	Pay for PRSI	Ee PRSI paid @4%	Er Prsi paid @11.05%
17/07/2020	€576.00	€576.00	€51.74	€576.00	€12.61	€576.00	€23.04	€63.65

2.3 Out-of-year overpayment recoupment

Where the overpayment is being recouped by means of a deduction from emoluments paid in a later year, the gross amount of the overpayment is deducted from the **net** pay. Where an overpayment is being recouped out-of-year, upon application by the employee, the employer should issue a statement(s) (see Appendix) to the staff member setting out:

(i) the year to which the overpayment relates, and
(ii) the amount of the overpayment to be recouped each year.

Example 2

In 2019 Megan was overpaid by a total of €1,200. This was discovered in May 2020. An instalment arrangement to recoup the overpayment was agreed between Megan and her employer. She will repay €40.00 per week for the remainder of the year 2020 and thereafter until the total overpayment has been repaid.

As the overpayment occurred in a previous year, the out of year recoupment method must be used i.e. gross overpayment must be collected from her net pay.

	€	**€**
Gross pay:	650.00 p.w.	650.00
Gross tax:	130.00	
Credits:	63.46	
Net Tax:	66.54	
USC:	15.94	
PRSI:	26.00	
Total Deductions:	108.48	108.48
Net Pay:		€541.52

Net Pay:	€541.52
O/P Recoupment:	€ 40.00
Take Home Pay:	€501.52

On completion of the recoupment plan, Megan can apply to Revenue for a refund of any income tax and USC that has been deducted on the €1,200 overpayment. Any out of year overpayment of employee and employer PRSI is a matter for the Department of Social Protection.

The recoupment of the gross amount of the overpayment from net pay should not be reported to Revenue on a payroll submission. By recouping the gross amount from the employee, the employer has recouped an amount that includes both the net pay and any payroll taxes operated on the net pay.

Table 3: Extract from a payroll submission following recoupment demonstrating that the gross amount recouped is not reported to Revenue.

Pay date	Gross pay	Pay for Income Tax	Income Tax paid	Pay for USC	USC paid	Pay for PRSI	Ee PRSI paid @4%	Er PRSI paid @11.05%
08/05/2020	€650.00	€650.00	€66.54	€650.00	€15.94	€650.00	€26.00	€71.83

3. Recoupment spanning a number of years

Where recoupment of an overpayment spans a number of years, recoupment can commence in the year in which the overpayment occurs, employing the current year recoupment method as set out in paragraph 2.2 above.

Recoupment of an overpayment, or part of an overpayment, in subsequent years must use the out of year recoupment method as set out in paragraph 2.3 above.

4. Making a claim for a repayment of tax/USC

4.1 A claim for a repayment of income tax and USC is only relevant where the recoupment refers to prior year overpayments.

Where out of year recoupment occurs, the employee can make a claim to Revenue for any repayment of income tax and USC that may be due. He or she should submit their claim to Revenue by post or through Myenquiries with the appropriate statement from their employer setting out full details of the amount of emoluments overpaid and the timeframe for recoupment of the overpayment - see Appendix.

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4.2 Revenue must apply the statutory 4-year time limit for making a claim for repayment of tax e.g. in 2020, a repayment of tax can be made for the years 2016 – 2019. Where an individual makes a **valid** claim for a year (e.g. a claim for year 2016 must be made by 31 December 2020), but the overpayment will not be totally recouped from him or her for a number of years, Revenue can make a refund at a later date, but only after the overpayment has been repaid in full to the employer - see example 3 below. However, a repayment can only be made where Revenue holds a valid claim.

4.3 To make a valid claim for repayment of PAYE and/or USC, the employee must contact Revenue and provide full details of the claim.

Where the recoupment is made in full within the 4-year time limit, Revenue will make any refund that may be due.

Where the recoupment extends beyond the 4-year time limit, an employee should:

- advise Revenue that they wish to make a claim for repayment of tax for the relevant year e.g. 2016, but that the overpayment will not be fully recouped from him or her by the employer for a number of years e.g. extending to 2021,
- forward the statement from the employer as set out in the Appendix,
- when the overpayment has been totally recouped by the employer, e.g. in 2021, the employee should then request Revenue to make any repayment that may be due in respect of the relevant year e.g. year 2016.

Further information on the statutory 4-year time limit, and making a valid claim, is available in Tax and Duty Manual Part 37-00-30 on the Revenue website.

Example 3

Refund for an overpayment spanning a number of years.

In July 2020, it was discovered that John has been on the wrong pay scale since 2014. This has resulted in an overpayment of emoluments to him of €7,200 (see Table 4). John and his employer came to an agreement that he would repay this over the course of 4 years from 2020 to 2023 as follows:

Year 2020
For the remainder of 2020, the recoupments in respect of January to June 2020, are deducted from his gross pay under the current year recoupment method outlined in paragraph 2.2.

Year 2021 and subsequent years
For the remainder of the instalment arrangement, the out of year recoupment method set out in paragraph 2.3 applies.

John needs to make a valid claim to Revenue.

Table 4: Overpayment to John by his employer spanning a number of years.

Year	Amount Overpaid €	Latest date to forward Valid Claim to Revenue	Valid Claim Y/N	Refund to be made by:
2020	900	N/A	N/A	Employer
2019	1,500	31/12/2023	Y	Revenue
2018	1,400	31/12/2022	Y	Revenue
2017	1,200	31/12/2021	Y	Revenue
2016	1,000	31/12/2020	Y	Revenue
2015	800	31/12/2019	N	N/A - outside the 4-year time limit
2014	400	31/12/2018	N	N/A - outside the 4-year time limit
Total	7,200			

On completion of the repayment for each individual year, John will be able to claim any overpaid tax back from Revenue, i.e. once 2016's overpayment has been recouped in full, John can claim for a refund of tax for 2016. However, John will not be able to claim for a refund of tax for the years 2014 and 2015 as these years are outside the 4-year time limit.

John will however be able to submit a valid claim for the subsequent years, e.g. a claim for year 2016 must be made to Revenue by 31 December 2020, even though the overpayment will not be totally recouped from him for a number of years. Provided Revenue hold a valid claim for the year 2016, any refund that may be due can be made later, after the overpayment has been paid back in full e.g. in/after 2023.

5. An employee who has left employment

In the current year

Where an employee leaves employment in the current year and is required to repay an overpayment of salary, the employee may repay the value of the overpayment net of tax to the employer.

Example 4

Áine left her employment with an employment ID of 1 in June 2020. In August 2020, her employer discovered that she was paid gross holiday pay of €450 to which she was not entitled.

As the overpayment was discovered in the year in which it was made, Áine can repay the net overpayment to that employer in the current year. Áine agrees with the employer that she will repay the net overpayment of €398.52 in one repayment in September 2020.

		€
Gross overpayment:		450.00
Gross tax:	90.00	
Credits:	63.46	
Net Tax:	26.54	
USC:	6.94	
PRSI:	18.00	
Total deductions:		51.48
Net Pay		398.52

Table 5: Extract from a payroll submission following recoupment of the overpayment in September 2020.

Cessation date	Employment ID	Pay date	Gross pay	Pay for Income Tax	Income Tax paid	Pay for USC	USC paid	EE PRSI	ER PRSI
30/06/2020	1	20/09/2020	-€450	-€450.00	-€26.54	-€450.00	-€6.94	-€18.00	-€49.73

In a previous year

Where an employee ceased to be employed by an employer in a previous year, and is required to repay an overpayment of salary the employee must repay the gross value of the overpayment to the employer and apply to Revenue for any refund of income tax and USC that may be due.

The recoupment of the gross amount of the overpayment from the ceased employee should not be reported to Revenue on a payroll submission. By recouping the gross amount from the employee, the employer has received an amount which incorporates the net pay, plus any payroll taxes deducted.

Any out of year overpayment of employee or employer PRSI is a matter for the Department of Social Protection.

6. Payment of emoluments following the death of an employee

Where emoluments continue to be paid following the death of an employee, the net amount can be recovered from the deceased's estate. The employer shall report via a payroll submission negative pay and deduction figures based on what was initially paid with the pay date being the date the money was made available to the employer.

The following may be applied –

a) if the overpayment only relates to a single pay period, the gross pay for the period in which the overpayment was made is reduced to nil with consequential adjustments for income tax, USC and PRSI, and

b) if the overpayment relates to multiple pay periods, any payment should be applied in the first instance to the most recent pay period in which the overpayment occurred. Where there is full recovery of the net amount paid for that period, the gross pay for that pay period is reduced to nil with consequential adjustments for income tax, USC and PRSI.

Example 5

The following example sets out how the recovery of a payment, made following the death of an employee, should be processed in respect of payroll submissions made after 1 January 2019.

An individual died on 31 January 2020, and payments for February 2020 and March 2020 continued to be made by an employer. The gross payment was €200 and the net payment was €150 in each month.

In August 2020, the employer started to receive payments in respect of the February 2020 and March 2020 payments.

Payment	Amount
August	€100
September	€100
October	€100

By September 2020, there has been a full recovery of the net payment for March (i.e. €150), therefore the March payroll can be amended and reduced to nil in September 2020. The employer can report a negative payroll figure of gross €200 with deductions of €50 e.g. income tax €40 and USC €10 (see Table 6 below). This is done without requesting an RPN.

By October 2020, the net payment for February 2020 (i.e. €150) has been recovered in full so the February payroll can be amended and reduced to nil. The employer can report a negative payroll figure of gross €200 with deductions of €50 e.g. income tax €40 and USC €10. This is done without requesting a Revenue Payroll Notification (RPN).

Table 6: Extract from payroll submission.

Cessation date	Employment ID	Pay date	Gross pay	Pay for Income Tax	Income Tax paid	Pay for USC	USC paid
31/01/20	1	01/10/20	-€200	-€200	-€40	-€200	-€10

As a result of this negative payroll submission, the employer's monthly statement will be reduced, and the deceased employee's record will be amended for the year of death. Where an overpayment spans different years, the net recoupment can be received from the estate and the relevant payroll must be adjusted accordingly.

The 'relevant' payroll submissions are the actual payroll submissions that were overpaid and the net amount has now been recouped (see Example 5).

Appendix

Statement of Recoupment of Emoluments

Name of Employee		
PPS Number of Employee		
Name of Employer		
Employer's Registered Number		
Amount of overpayment in respect of the year ____.		
Years and Amounts in which the overpayment is/will be recouped from net pay.	Years	Amounts