

Notice No.: 94-009
Date: August 10, 1994
Applies to: PERS employers
Subject: Reporting standby-location pay

Effective with the August 1994 transmittal reporting period, pay for time not actually worked is reportable compensation in certain circumstances. Under ESHB 2644, the 1994 Legislature authorized the reporting of compensation paid to a member of PERS Plan 1 or Plan 2 while in standby status as long as the employee is required to remain at a specific location or in its immediate vicinity. The Department of Retirement Systems' new administrative rule identifies the reportable pay earned while in standby status as *location pay*. This Notice defines location pay and the conditions under which it can be reported. For PERS reporting, the administrative rules described in this Notice supersede those in DRS Notice 94-003.

Location Pay Defined

The legislation identifies the payment received by a PERS member in standby status as reportable when the employee is required to remain at a "specific location" or in its "immediate vicinity." As defined in WAC 415-108-461, *specific location* means "a single, specific parcel of property, such as the job site or the employee's residence" and *immediate vicinity* means "a parcel of property abutting the specific location."

An employee's pay is considered *location pay*, and therefore reportable, when the following two conditions are both met:

- the employee is required to remain at a specific location or in its immediate vicinity; and
- the employee is required to report to work immediately if the need arises.

Compensation will not be considered location pay if the employee is free to travel beyond the immediate vicinity, even if that travel is restricted by response time or beeper range.

Location Pay For State Employees

State employers are authorized under WAC 356-15-080(1)(a) to pay standby pay only to employees who are limited to a specific location; this pay qualifies as location pay for retirement reporting. Standby pay paid under WAC 356-15-080(1)(b) is paid to employees who are not required to remain at a specific location and is not reportable for retirement. The above references to WAC 356-15-080(1) refer to the rule as codified on August 1, 1994.

Employers Must Establish a Written Policy

Payment received by a PERS member will be considered location pay only if the employer adopts a written policy verifying that the employee's pay for time not actually worked was earned under the following circumstances:

- the employee is required to remain at a specific location or in the immediate vicinity, as defined in WAC 415-108-461; and
- the employee is required to report immediately if the need arises, although the need may not arise.

The employer must adopt this policy, document it, and retain for employer records. In the absence of such a written policy, the Department will assume that the employee is not restricted to a specific location or its immediate vicinity and that any payment for time not actually worked is not reportable compensation.

Transmittal Reporting

In the past, some employers may have reported standby pay erroneously. Even though standby pay was not considered earnable compensation and this reporting was erroneous, the legislature has exempted past reporting from correction.

Beginning with the August 1994 reporting period, employers must exclude from retirement compensation any payment made to members for time not actually worked unless it qualifies as location pay and the employer has adopted a written policy. Erroneous reporting after the August 1994 reporting period will be subject to correction.

Determinations About Pay Type

The name that an employer applies to compensation does not determine whether the payment is reportable. Instead, the Department will look to the circumstances under which the compensation is earned, that is:

- whether the pay is pay for time actually worked;
- if not for time actually worked, whether the pay meets the definition of location pay.

For example, some school districts make payments they call “standby pay” to bus drivers who must remain at a remote location while waiting to transport students back to the driver’s principal work site. This is pay for time actually worked and is considered regular compensation. Conversely, even if an employer describes a payment as “location pay,” it is reportable for retirement only if it meets the definitions of WAC 415-108-461.

Questions?

If you have questions about which compensation is reportable to DRS for PERS members, contact Membership Services at (206) 753-3113, scan 234-3113.

Sheryl Wilson
Director