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STATE COMPTROLLER



ROBIN R. RABII  
DIRECTOR

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**  
Bureau of State Payroll Services  
110 State Street  
Albany, New York 12236

December 22, 2014

Dear Employee:

I am writing to inform you about changes we are making that will impact you and other state employees who received workers' compensation-related benefits between **2010** and **2014**. These changes, which are being made to comply with Internal Revenue Service (IRS) regulations, are likely to mean that you are entitled to a refund of Social Security, Medicare and income taxes that were withheld from the payments you received during the period of time you were receiving workers' compensation-related benefits.

In addition, you will receive a refund of any amounts that were withheld from the workers' compensation-related benefit payments you received between **2010** and **2014** and transferred to the New York State Deferred Compensation Plan (NYSDCP), including a refund of the related earnings on those amounts.

While these changes may entitle you to a refund of taxes and/or deferred compensation amounts, there may be tax consequences you need to consider.

The Office of the State Comptroller (OSC) is taking action to correct your payroll records, submit Social Security and Medicare tax refund requests to the IRS, and provide relevant information to the NYSDCP to process refunds.

**If you sign and return the enclosed consent form to your State agency for each applicable year, OSC will submit, on your behalf, a request to the IRS to refund your Social Security and Medicare taxes. Please contact your Agency to assist you in completing this form. You retain the right to file a refund claim directly with the IRS if you fail or choose not to submit the consent forms.**

The attached FAQ's provide additional information on this complex subject including a list of actions that are necessary to comply with IRS regulations, how and when the actions will be taken, who will be responsible for taking specific actions, and what actions you may be required to take during the upcoming months.

OSC is working closely with your agency and union to implement these changes and address any questions you may have. We encourage you to consult with a tax advisor regarding your individual tax situation. Please contact your agency payroll officer or OSC at 518-474-6223, or email [workerscomp@osc.state.ny.us](mailto:workerscomp@osc.state.ny.us) if you require further information or clarification.

Sincerely,

Robin R. Rabii  
Director, State Payroll Services

RR/yvk  
Enclosures (2)

**OSC Bureau of State Payroll Services**  
**Change in Payroll Withholding for Workers' Compensation-Related Benefits**  
**Frequently Asked Questions**

**What are “workers’ compensation-related benefits”?**

Workers’ compensation-related benefits are the statutory workers’ compensation benefit and any supplemental payments for on-the-job injuries.

**Why are these actions necessary?**

These actions are necessary to comply with Internal Revenue Service (IRS) regulations. Under IRS regulations, workers’ compensation-related benefits are exempt from Social Security and Medicare taxes. Workers’ compensation-related benefits are also exempt from federal income taxes, New York State and local income taxes, if applicable. Also, under IRS regulations, any non-taxable workers’ compensation-related benefits you received are not eligible for salary deferral under the New York State Deferred Compensation Plan (NYSDCP).

**What actions are necessary to comply with IRS regulations?**

The following actions are necessary to comply with Internal Revenue Service (IRS) regulations:

Actions to be taken by OSC

1. OSC will issue W-2C’s (Corrected Wage and Tax Statement) to reduce the taxable gross wages that were previously reported on your W-2. This will be done for all applicable tax years, including **2011**, **2012** and **2013** (Note: W-2Cs for tax year 2010 have already been issued).
2. **Subject to your authorization on the enclosed consent form**, OSC will file claims with the IRS to refund the Social Security and Medicare taxes that were withheld from the payments you received during the period of time you were also receiving workers’ compensation-related benefits. OSC will submit claims to the IRS for tax years **2011**, **2012**, and **2013** (Note: If you submitted a signed consent form to your State agency by the deadline, a request to refund your 2010 Social Security and Medicare taxes has already been submitted to the IRS. OSC is currently awaiting IRS action on the refund claim).

Actions to be taken by NYSDCP

3. The NYSDCP will send you a letter detailing any amounts that were withheld from the workers’ compensation-related benefit payments you received for all applicable years, as well as any earnings on those amounts. You will be given an opportunity to elect income tax withholding and the form of payment you would prefer (check or direct deposit).
4. In 2015, the NYSDCP will issue refunds for tax years **2010**, **2011**, **2012**, **2013** and **2014**.
5. In 2016, the NYSDCP will issue an IRS Form 1099-R for the refunds issued in the 2015 tax year.

**Why is it necessary for OSC to issue corrected W-2’s?**

Corrected W-2’s must be issued because the workers’ compensation-related benefits you received should not have been reported as taxable income.

**When will the corrected W-2's be issued?**

OSC will mail the W-2C's using your address in the State payroll system. The W-2C's for **2011** are expected to be mailed no later than December 31, 2014. The W-2C's for **2012** and **2013** are expected to be mailed in the second quarter of 2015.

**Will OSC issue a corrected W-2 for tax year 2014?**

A W-2C for tax year 2014 will not be necessary. If you received workers' compensation-related benefits during calendar year 2014, the W-2 you will receive in January 2015 for the 2014 tax year will accurately reflect a reduction in taxable earnings related to workers' compensation-related benefits and should be used in filing your income tax returns for 2014. In addition, you are entitled to a refund of any Social Security and Medicare taxes that were withheld during the period of time you were receiving workers' compensation-related benefits in 2014. OSC will process a refund of your 2014 Social Security and Medicare taxes and it will be reflected in your last paycheck of 2014.

**When will OSC submit the claim to the IRS to refund Social Security and Medicare taxes for tax years 2011, 2012 and 2013?**

If you sign and return the enclosed consent form to your State agency for each applicable tax year (duplicate, as needed), OSC will submit, on your behalf, a request to the IRS to refund your Social Security and Medicare taxes for the years 2011, 2012 and 2013. Pursuant to IRS regulations, if you do not sign and return this consent form for each applicable year, OSC is not authorized to submit a request for refund of these taxes on your behalf. You retain the right to file a refund claim directly with the IRS if you fail or choose not to submit the consent form.

**The consent form for 2011 must be returned to your agency no later than January 16, 2015**, so that OSC can begin the refund claim process. Your State agency is assisting us with this process, so you also may be contacted by your agency with a request that you sign the consent form and return it to them.

IRS action on OSC's refund claims is expected to take six to twelve months from the date of submission. Following IRS approval of the claim and OSC's receipt of refunds from the IRS, a refund check will be issued to you from this Office.

**What about Social Security and Medicare tax refunds for years prior to 2011?**

In general, tax refunds are limited by a three year, three month and fifteen day statute of limitations. At this point, the IRS will not consider tax refunds for years prior to **2011**.

**How do I get a refund of my income taxes for the 2011, 2012, and 2013 tax years?**

To obtain an income tax refund for 2011, 2012, and 2013, you must file amended income tax returns before the IRS and State filing deadlines for those years. See table below for applicable deadlines.

<b>Tax Year</b>	<b>Filing Deadline</b>
2011	4/15/2015
2012	4/15/2016
2013	4/15/2017

(Please note that the IRS may announce a brief extension of the filing deadline, depending on what day April 15th falls on in a given year).

**We advise you to consult a tax advisor to determine whether you should file amended Federal, State and local, if applicable, income tax returns, and to obtain assistance in filing such returns.** For additional information on filing for Federal income tax refunds, please refer to the IRS website at [www.irs.gov](http://www.irs.gov), or call 1-800-829-3676. For additional information on filing for New York State and local (if applicable) income tax refunds, please refer to the New York State Department of Taxation and Finance website at [www.tax.ny.gov](http://www.tax.ny.gov), or call 518-457-5181.

### **How does receiving workers' compensation-related benefits affect salary deferrals I made to my New York State Deferred Compensation Plan (NYSDCP) during 2010, 2011, 2012, 2013 & 2014?**

Under IRS regulations, any non-taxable workers' compensation-related benefits you received are not eligible for salary deferral. If such amounts were withheld from your workers' compensation-related benefit payments and transferred to the NYSDCP, the NYSDCP must refund those amounts, as well as any earnings on those amounts, for the applicable years. You will receive a letter from the NYSDCP during the third quarter of 2015 detailing the refund process. The NYSDCP will also issue you a Form 1099-R for the tax year in which the refund is issued. **We advise you to consult a tax advisor to obtain assistance with reporting these distributions when filing your income tax returns.**

### **How does receiving workers' compensation-related benefits affect my Social Security and Medicare benefits?**

When you work and pay Social Security taxes, you earn up to a maximum of four "credits" for each year, provided that you earn at least the minimum amount of covered earnings in that year. For example, in 2014, you must earn \$1,200 in covered earnings to get one Social Security or Medicare work credit and \$4,800 to get the maximum four credits for the year. Most people earn more than the required amount to receive the four "credits" in a given year. However, depending upon the length of time you remain on a workers' compensation-related leave in a given year, you may not earn the amount required to receive the four "credits" for that year.

For more information, refer to [www.ssa.gov](http://www.ssa.gov).

### **How will OSC handle future payroll tax withholding and salary deferrals for employees receiving workers' compensation-related benefits?**

Beginning in January of 2015, OSC will implement changes to ensure that: (1) any payroll taxes that are withheld from employee payments received during the period of time on a workers' compensation-related leave are refunded to affected employees during the same tax year, and (2) workers' compensation-related benefits will not be eligible for deferred compensation plan deductions. These changes will help OSC generate a W-2 that accurately reflects an employee's taxable wages, eliminate the need to pursue FICA tax refunds, and reduce the need for corrected W-2's.

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER  
BUREAU OF STATE PAYROLL SERVICES

**PRIOR YEAR SOCIAL SECURITY AND MEDICARE TAX REFUND CERTIFICATION**

**Section A:** *The Agency is required to complete the following section.*

Agency Code: \_\_\_\_\_ Tax Year: \_\_\_\_\_ Batch #: \_\_\_\_\_

Employee Name: \_\_\_\_\_  
FIRST MIDDLE LAST

NYS EMPLID: \_\_\_\_\_

Amount of Tax Refund: \_\_\_\_\_

Reason for Refund:  Workers' Comp  Nonresident Alien  Other – Explain:

\_\_\_\_\_  
\_\_\_\_\_

**Section B:** *The employee is required to complete the following section.*

I, \_\_\_\_\_, have not and will not file a claim with the Internal Revenue  
(Print Name)

Service for a refund of the Social Security and Medicare taxes withheld and reported for the tax year and reason(s) identified above by my employer.

I give my consent to my employer to file a refund claim on my behalf for refunds of Social Security and Medicare taxes withheld from my wages that are now considered exempt for reasons identified above.

**Employee Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Notice to Employee:** *Due to the complexity of income tax laws, the employee may wish to seek advice or help from the Internal Revenue Service or a tax professional, regarding the tax implication of receiving this refund of Social Security and Medicare taxes.*

**PLEASE NOTE:**

**This form must be retained in the Agency payroll office for four (4) years and be made available upon request by the Office of the State Comptroller.**