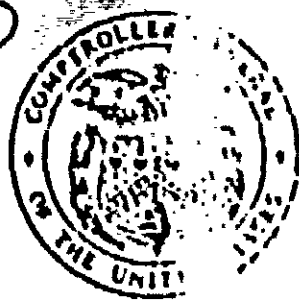


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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-203242

DATE: March 17, 1982

MATTER OF: Refund of erroneous deductions for
life insurance premiums and retirement
contributions

DIGEST: An adjustment to an employee's pay to correct
erroneously withheld deductions is a matter
cognizable by the General Accounting Office
and the Act of October 9, 1940, 54 Stat. 1061,
as amended, 31 U.S.C. 71a, bars refunds beyond
6 years.

By letter of May 8, 1981, Mr. R. L. Sandifer, an authorized certifying officer at the Department of Agriculture's National Finance Center, requested an advance decision regarding the refund of life insurance premiums and retirement contributions erroneously withheld from the salary of certain employees of the Department of Agriculture. The certifying officer notes our decision Matter of refund of life insurance premiums, B-198115, October 21, 1980, in which we permitted refund of erroneously withheld life insurance premiums and requests clarification of that decision. Specifically, he inquires whether salary adjustments may be made beyond the 6-year limit imposed by the Act of October 9, 1940, 51 Stat. 1061, as amended, 31 U.S.C. 71a (1976), which bars all claims cognizable by the General Accounting Office which are not received in the General Accounting Office within 6 years of the date the claim first accrued. The certifying officer has submitted the vouchers of two employees, Roger K. Stephens and Maude L. Norris, seeking reimbursement for insurance premiums for the former, and retirement contributions for the latter, erroneously withheld from their compensation. The erroneous deductions began more than 6 years prior to the discovery of the error.

Under the Federal Group Life Insurance Act of 1954, as amended, 5 U.S.C. §§ 8701-8716, the Office of Personnel Management may issue regulations which prescribe the time at which and the conditions under which an employee is eligible for coverage. These regulations are found at 5 C.F.R. §§ 870.101-871.604, Federal Personnel Manual (FPM) Chapter 870, and FPM Supplement 870-1. Paragraph S4-7b of FPM Supplement 870-1 states that errors in withholdings involving current employees should be adjusted in

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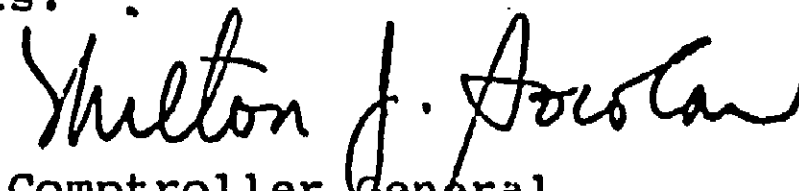
a subsequent pay period. If employment has been terminated, the refund should be made in accordance with paragraph S4-7c by adjustment to an employee's final pay.

Under the Civil Service Retirement Act, as amended, 5 U.S.C. §§ 8301-8348, the Office of Personnel Management may issue regulations which are necessary to carry out the purposes of the Act. These regulations are found at 5 C.F.R. § 831.101-831.1605, Federal Personnel Manual (FPM) Chapter 831, and FPM Supplement 831-1. Paragraph S21-7a of FPM Supplement 831-1 states that errors in deductions and contributions for current employees should be adjusted in a subsequent payroll. Paragraph S21-7b discusses procedures for adjusting errors after an employee is separated.

Thus, under the authority of the Federal Personnel Manual agencies may make adjustments for periods less than 6 years prior to the date of the adjustment. But since such adjustments may result in paying an employee an amount which should have been paid before and which the employee could have claimed, they are subject to the 6-year statute of limitations. Thus, we noted in Nancy E. Howell, B-203344, August 3, 1981, that life insurance premiums which were erroneously withheld from an employee's pay could not be reimbursed beyond the 6-year limit imposed by the Act of October 9, 1940, 31 U.S.C. § 71a.

Likewise, erroneous deductions for civil service retirement must be considered as any other erroneous deduction from compensation and any claim for reimbursement must be submitted within the 6-year period prescribed by 31 U.S.C. § 71a.

Accordingly, the Department of Agriculture should make adjustments for erroneous deductions in accordance with the above. In this connection we remind all agencies and departments that salary adjustments can be made whenever a payroll error is discovered, as long as the correction is made within 6 years of the error. However, if the elapsed time is approaching 6 years and a delay for any reason is anticipated in making the adjustment, the matter should be forwarded to the General Accounting Office for recording to preserve the employee's rights.

for 
Comptroller General
of the United States