

Employment Development Department

Accounts Receivable for Benefit Overpayments

Introduction

In addition to collections of the State's employment tax program, the Employment Development Department (EDD's) Tax Branch collects Unemployment Insurance (UI) and State Disability Insurance (SDI) benefit overpayments and the Benefit Audit Fund (BAF) from over 700,000 benefit claimants. Overpayments are established when a claimant received benefits to which they were not entitled. The BAF is a penalty of 30 percent on benefit overpayments when there was willful misrepresentation or withholding of material facts to obtain benefits. The BAF revenue is used to fund EDD's costs associated with the discovery, establishment and collection of benefit overpayments, with a portion of the penalty also paid to the UI fund. The Unemployment Insurance Branch performs the overpayment establishment and accounting of the UI and SDI benefit overpayments. The UI Branch works in partnership with Tax Branch, who is responsible for collection of the benefit overpayments. For State Fiscal Year (SFY) 13/14, EDD collected approximately \$408 million in UI, SDI, and BAF. Out of the \$408 million collected approximately \$239 million in SDI was recovered via the State Workers' Compensation process which allows EDD to recover SDI benefits paid to claimants pending acceptance of their Workers' Compensation insurance claims. State law allows and requires the payment of SDI benefits when a claimant has a pending Workers' Compensation claim. The EDD is aware this would likely result in an overpayment and takes action to collect benefits once the Workers' Compensation claim is settled.

1) Accounts Receivable:

- a) What is the magnitude of the current accounts receivable?

As of June 30, 2014, the total benefit overpayments were \$ 1,598,153,033.

- b) What is the breakdown of the total accounts receivable amount by revenue source?

The following table identifies the breakdown of total benefit overpayments by type:

Total Benefit Overpayments	Unemployment Insurance	State Disability Insurance	Benefit Audit Fund
\$ 1,598,153,033	\$ 898,610,760	\$ 113,879,635	\$ 585,662,638

- c) What is the breakdown of the total accounts receivable amount by delinquency period (e.g., 30-days past due, 90-days past due, 1-year past due, etc.)?

The following table shows all total benefit overpayments by age as of June 30, 2014:

Age	Unemployment Insurance	State Disability Insurance
0 - 30 Days	\$11,458,402	\$4,141,211
31 - 90 Days	43,352,851	9,619,597
91- 365 Days	111,395,521	17,839,108
1 - 5 Years	809,540,833	56,796,098
5 - 10 Years	303,901,525	32,650,866
10 - 20 Years	179,689,361	10,479,508
20+ Years	6,577,576	710,576
Totals*	\$1,465,916,069	\$132,236,964

* - Totals include Benefit Audit Fund amounts.

- i) What is the average time an account receivable stays on the books if it is expected to be collected?

The EDD does not track the average time an overpayment account receivable stays on the books before it is collected. However, EDD proactively attempts recovery of overpayments (including pursuing voluntary payments, UI and SDI benefit offsets, State and Federal Tax Return offsets, Summary Judgments, and Earnings Withholding Orders, etc.) before determining if an account is uncollectable. In general, accounts must be between 6 and 10 years old with 1 year of no payment activity before they are eligible for potential write off.

- ii) What is the average time an account receivable stays on the books it is in a repayment plan?

The EDD does not track the average time an accounts receivable stays on the books when in a repayment plan. As shared above, the EDD proactively attempts recovery of benefit overpayments, including voluntary payment plans of up to 24 months. If the claimant does not make payments as agreed upon in the voluntary repayment plan, the EDD will take involuntary collection actions to protect the interest of the State.

- d) Does the EDD contract with any third parties for the collection of outstanding accounts receivable? If so, what criteria does the EDD use to determine which accounts are contracted out for collection

The EDD does not contract with any third parties for the collection of outstanding UI and SDI benefit overpayment accounts receivable.

- e) How much of the total accounts receivable amount can the EDD reasonably expect to collect and when?

Based on the benefit overpayment accounts receivable as of June 30, 2014, of the \$1.5 billion in accounts receivable, the EDD estimates it will collect the following benefit overpayment amounts:

State Fiscal Year	14/15	15/16	16/17	17/18
Estimated Collections (in millions)	\$135.8	\$51.2	\$26.8	\$22.1

Note: The estimated collections is based on historical collection rates and the delinquent accounts receivable as of June 30, 2014 and does not include collection for on-going accounts receivable establishments or third-party SDI collections.

- f) What additional tools or resources would the EDD need to improve the collection of outstanding accounts receivable?

The EDD is always looking to improve the collection of accounts receivable. We are seeking an upgrade to our existing UI and SDI Benefit Overpayment Collection Application (BOCA) through a Feasibility Study Review. The current Benefit Overpayment Collection System software is no longer supported. Should the system fail, the Department’s ability to collect benefit overpayment revenue could be compromised. The EDD has received limited federal grant funding and staff work is being performed in support of this effort. The EDD is looking to optimize collections with automated features of a new system.

In addition, the EDD is investigating the ability and authority to collect benefit overpayments using the tax administrative process instead of the civil process, which could enable more effective and efficient collections of fraud benefit overpayments.

It is important to recognize the tools that the EDD currently has in place to optimize revenue collections for benefit overpayments. The EDD participates in the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA) that allows other states to collect California's benefit overpayments on behalf of EDD.

Currently, 49 states have signed onto the National Association of State Workforce Agencies (NASWA) 2013 IRORA agreement including California. The IRORA is an agreement among states to collect overpayments of unemployment benefits for each other. States can enter into separate agreements among themselves, but the IRORA gives states a standardized approach to recovering overpayments for each other on a cooperative basis.

- g) What is the expected percentage of outstanding accounts receivables that will likely never be collected?

Before an account is deemed uncollectable, EDD proactively attempts recovery of overpayments by pursuing voluntary payment agreements and involuntary collection actions, as needed. Currently, out of \$1,598,153,033 in benefit overpayments accounts receivables, \$129,592,613 is deemed uncollectable.¹ Therefore, the EDD estimates that approximately 8 percent of the total accounts receivable are uncollectable.

- i) Do the account receivables remain on the books in perpetuity, or are they written off after a certain period of time?

The EDD follows established write off criteria and procedures to ensure the appropriateness of action taken to write-off accounts. In general, accounts must be between 6 and 10 years old with 1 year of no payment activity before they are eligible for write off. Once identified as uncollectible, EDD submits these overpayments to the State Controller's Office and, as required, to the Victim's Compensation and Government Claims Board for approval to be discharged. Upon receipt of approval, these overpayments are written off.

¹ "Uncollectable" accounts receivable includes pending write-offs such as bankruptcy and deceased accounts. It also includes cases that have expired summary judgments, fraud overpayments that are over 6 years with no Summary Judgment filed and no offsets allowed, and fraud overpayments with no Summary Judgment within 3 years and with only offsets available.

The amounts written off by the VCGCB for the past 5 write-off cycles are shown in the table below.

Period	Parameter	Totals	Date Written Off
Nov-2011	Over \$7,500	\$ 8,430,310.87	01/22/13
May-2012	Over \$,7500	10,141,434.11	01/31/13
Nov-2012	Over \$7,500	10,532,099.44	07/02/13
May-2013	Over \$7,500	23,311,254.33	12/30/13
Nov-2013	Over \$7,500	20,935,818.05	08/04/14
Total		\$ 73,350,916.80	

ii) Has EDD attempted to find ways of eliminating the account receivables?

The EDD recently implemented the Unemployment Compensation Treasury Offset Program (UC TOP) which allows for the offset of a claimants federal tax refund for fraudulent benefit overpayments. Since the submission of the first accounts receivable data file in October 2014, EDD has collected over \$72.8 million. The EDD also has similar offset programs with the Franchise Tax Board, California State Lottery, and the State Controller’s Office Unclaimed Property.

2) Revenue Collection:

a) How much revenue does the EDD collect per EDD (tax) employee?

For benefit overpayments, the average collections per direct employee, including collectors and call center staff, is \$765,647 per year.

b) Are certain taxes more difficult to collect than others?

Benefit overpayments include claims for both UI and SDI benefits. SDI claims often involve a third-party due to its connection with Workers’ Compensation. To prevent financial burden, claimants often receive SDI benefits while awaiting approval of their Workers’ Compensation claim. Once approved, Workers’ Compensation is retroactive and Workers’ Compensation then pays back to the EDD the amount of SDI collected by the claimant. For that reason, SDI overpayments in comparison are “easier” to recover.

- c) What are the biggest obstacles that prevent the EDD from collecting account receivables?

Some of the obstacles that prevent the EDD from collecting benefit overpayments include debtors that have limited source of income, debtors that leave the state, and aged debt. While few collection options exist for debtors with limited income, the EDD ensures that the State's rights are protected should a debtor begin receiving income at a future date. However, debtors that leave the state and aged debt are being addressed by the UC TOP as that program may offset federal income tax refunds from all U.S. States and/or territories.

- d) What additional tools or resources would the EDD need to collect tax revenues that are currently going uncollected?

The EDD continually seeks ways to simplify the collection process and eliminate costs for the claimant, employer, and the State. We also pursue reengineering efforts to streamline all tax processes to ensure that we operate as effectively and efficiently as possible. As previously stated, the EDD is pursuing an upgrade to our existing UI and SDI Benefit Overpayment Collection Application because it is outdated and uses programming language that is no longer supported.

- e) Has the EDD taken steps to improve the collection process?

Yes.

- i) If not, why not?

- ii) If yes, what are they?

The EDD has taken several actions to enhance our collection systems to better eliminate account receivables. These actions include the implementation of UC TOP, as previously mentioned, and changes to Private Process Servers (PPS). The EDD utilizes PPS in four counties in which the sheriff does not have the available resources to serve the Earnings Withholding Orders (EWO). Automating the PPS provides a standardized and documented PPS process, enhances inventory tracking, and provides timely follow-up on the EWOs. This effort also includes end-user inputs and training to help ensure system maximization and functionality. The automation also allows for better work-flow processing and communication with the PPS contractor.

- f) Do these tools differ depending on the tax or fee program in question?

Currently, a collection action on a fraud benefit overpayment account requires the EDD to file a Summary Judgment and Writ of Execution with the county courts and an application for Earnings Withholding Order with the county sheriff. These processes are not required for the collection of EDD's employment tax accounts receivable.

- g) What technologies does the EDD currently utilize to minimize the tax gap?

This section does not apply to benefit overpayments.

- h) How effective are the EDD's current auditing practices and how could they be improved?

The EDD conducts a daily audit process by performing a cross match of New Employee Registry (NER) data with UI claims to determine if a claimant has received benefits after returning to work. In addition, the EDD conducts a quarterly audit process that matches wage information reported by employers with UI claim information. The purpose of these audits is to ensure the integrity of the UI program by identifying claimants who may be working while drawing unemployment benefits inappropriately or fraudulently. Overpayments and penalties that are established and collected help to protect the solvency of the UI Trust Fund and help to control or reduce employer taxes.

- i) What percentage of EDD audits reveal a material discrepancy between reported liability and actual liability?

This section does not apply to benefit overpayments.

- j) How much money is generated annually as a result of audits?

The EDD's benefit audit cross match processes established overpayments and penalties of \$45 million during SFY 13/14.

- k) Does the EDD currently share any information with other tax agencies to identify taxpayers that are out of compliance? If so, what types of information are shared?

For the offset of benefit overpayments, the EDD shares information with the Franchise Tax Board, the Internal Revenue Service, the California State Lottery, and the State Controller's Office.

l) Is there information that the EDD is currently unable to obtain that it believes would be useful in closing the tax gap?

This section does not apply to benefit overpayments.

m) What taxes and fees are currently outside the jurisdiction of the department that the department believes could be collected if it had jurisdiction over the tax and fee?

This section does not apply to benefit overpayments.