

§ 530.203

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entitled; and the total amount of discretionary payments the employee is authorized to receive.

[56 FR 12835, Mar. 28, 1991, as amended at 57 FR 3114, Jan. 28, 1992; 58 FR 50249, Sept. 27, 1993; 61 FR 3540, Feb. 1, 1996; 64 FR 69172, Dec. 10, 1999]

§ 530.203 Administration of aggregate limitation on pay.

(a) No executive branch employee (or General Schedule employee in the legislative or judicial branch) may receive any allowance, differential, bonus, award, or other similar cash payment under title 5, United States Code, in any calendar year to the extent such payment, in combination with the employee's basic pay (whether received under title 5 or otherwise), would cause the employee's aggregate compensation to exceed the rate payable for level I of the Executive Schedule on the last day of that calendar year.

(b) The limitation described in paragraph (a) of this section applies to the total amount of aggregate compensation actually received by an employee during the calendar year without regard to the period of service for which such compensation is received.

(c) Except in the case of a retention allowance, at the time a discretionary payment is authorized for an employee, the employee may not receive any portion of such payment that, when added to the estimated aggregate compensation the employee is projected to receive, would cause the aggregate compensation actually received by the employee during the calendar year to exceed the rate payable for level I of the Executive Schedule at the end of the calendar year. Any portion of a discretionary payment deferred under this paragraph shall become available for payment as provided in § 530.204. The authorization and payment of a retention allowance are governed by the rules set forth in subpart C of part 575 of this chapter.

(d) Nondiscretionary payments may not be deferred or discontinued for any period of time in order to make a discretionary payment that would otherwise cause an employee's pay to exceed any limitation described in or established by this section.

(e) If the estimated aggregate compensation to which an employee is entitled, after deferral of discretionary payments as required by paragraph (c) of this section, exceeds the rate in effect for level I of the Executive Schedule at the end of the calendar year, the agency shall defer all nondiscretionary payments (other than basic pay) at the time when otherwise continuing such payments would cause the aggregate compensation actually received by the employee during the calendar year to exceed the rate payable for level I of the Executive Schedule at the end of the calendar year. Any portion of a nondiscretionary payment deferred under this paragraph shall become available for payment as provided in § 530.204.

(f) If an agency makes an incorrect estimate of aggregate compensation at an earlier date in the calendar year, the sum of an employee's remaining payments of basic pay (which may not be deferred) may exceed the difference between the aggregate compensation the employee has actually received to date in that calendar year and the rate for level I of the Executive Schedule. In this case, the employee will become indebted to the Federal Government for any amount paid in excess of the level I aggregate limitation. To the extent that the excess amount is attributable to amounts that should have been deferred and would have been payable at the beginning of the next calendar year, the debt will be extinguished on January 1 of the next calendar year. As part of the correction of the error, the excess amount will be deemed to have been paid on January 1 of the next calendar year (when the debt was extinguished) as if it were a deferred excess payment as described in § 530.204 and must be considered part of the employee's aggregate compensation for the new calendar year.

[56 FR 12835, Mar. 28, 1991, as amended at 57 FR 3114, Jan. 28, 1992; 58 FR 50249, Sept. 27, 1993; 64 FR 69172, Dec. 10, 1999]

§ 530.204 Payment of excess amounts.

(a) Except as provided in paragraph (d) of this section, amounts in excess of the limitations described in or established by § 530.203 shall be paid to the