



## ***Benefits Administration Letter***

Number : 15-310

December 2015

**Subject: Border Patrol Agent Pay Reform Act of 2014**

### **INTRODUCTION AND PURPOSE**

**This announcement pertains only to the payroll provider servicing the U.S. Customs and Border Protection Agency (CBP).** The purpose of this announcement is to advise you that as of January 10, 2016, there is a change to the way Border Patrol agents will be paid overtime compensation, which will affect how this data will be posted on the Individual Retirement Records (IRR).

The Border Patrol Agent Pay Reform Act of 2014, Public Law 113-277, created a new form of retirement-creditable overtime compensation for Border Patrol agents. The new compensation is known as the Border Patrol Overtime Supplement (BPOS). Border Patrol agents may elect one of three regular work schedules, each referred to as a “regular tour of duty,” and each providing different rates of compensation. An overtime supplement applies to agents with Level 1 or Level 2 regular tour of duty, as shown below:

1) *Level 1 regular tour of duty:*

Five 10-hour workdays (8 basic + 2 overtime hours) each week; (100 hours per pay period)  
Overtime supplement equal to 25 percent (.25) of basic pay

2) *Level 2 regular tour of duty:*

Five 9-hour workdays (8 basic + 1 overtime hour) each week; (90 hours per pay period)  
Overtime supplement equal to 12.5 percent (.125) of basic pay

3) *Basic regular tour of duty:*

Five 8-hour workdays (no overtime within tour) each week; (80 hours per pay period)  
No overtime supplement

**Note:** There is also a possibility of a “hybrid” period, which is a combination of tours over a biweekly pay period that serves as a transition in which an employee shifts from one type of tour to another type of tour in the middle of the pay period.

As a result of the new form of compensation, this BAL provides you with instructions on how to post the new overtime supplement on the Individual Retirement Record (IRR, or SF 2806, SF 3100) for Border Patrol agents. Note, this law only affects Border Patrol agents and does not affect any other type of Law Enforcement Officers.

## **INSTRUCTIONS FOR PAYROLL PROVIDER HANDLING BORDER PATROL AGENTS' RETIREMENT RECORDS**

### **Overtime Supplement Postings on the IRR**

For retirement purposes, the overtime supplement percentage is added to the annual salary to obtain the total annual basic pay rate. By law, the overtime supplement is treated as basic pay for retirement purposes and certain other purposes (such as for life insurance).

#### Posting Of Basic Pay at Levels 1, 2, and Basic Regular Tours Of Duty

OPM is expecting a double posting on the IRR whenever an overtime supplement is paid. The IRR must first post the effective date with the annual rate of retirement-creditable basic pay, which includes an applicable locality payment or special rate supplement. In addition, the next line must post the annual rate of retirement-creditable basic pay equal to the sum of an applicable locality payment or special rate supplement and the overtime supplement amount. Next to this posting, the IRR must indicate in the "Remarks" area the percentage of overtime supplement (BPOS) that was assigned.

#### *Example of posting for Level 1 regular tour of duty*

<b>Effective Date</b>	<b>Action</b>	<b>Base Pay</b>	<b>Remarks</b>
01-12-14	Gen Adj	78762	
01-12-14	Gen Adj	*98453	Incl. 25% BPOS

\*Note: Base pay means the total retirement-creditable annual rate of basic pay equal to the sum of the adjusted rate of basic pay (including an applicable locality payment or special rate supplement) and the overtime supplement. In this example, the agent was at GS-12, step 5, in the "Rest-of-U.S." locality pay area and entitled to a \$78,762 locality rate and an overtime supplement at the Level 1 regular tour of duty. Thus, the base pay is \$98,453 ( $\$78,762 \times 1.25 = \$98,453$ ).

*Example of posting for Level 2 regular tour of duty*

<b>Effective Date</b>	<b>Action</b>	<b>Base Pay</b>	<b>Remarks</b>
01-12-14	Gen Adj	78762	
01-12-14	Gen Adj	*88607	Incl. 12.5% BPOS

\*Note: Base pay means the total retirement-creditable annual rate of basic pay equal to the sum of the adjusted rate of basic pay (including an applicable locality payment or special rate supplement) and the overtime supplement. In this example, the agent was at GS-12, step 5, in the “Rest-of-U.S.” locality pay area and entitled to a \$78,762 locality rate and an overtime supplement at the Level2 regular tour of duty. Thus, the base pay is \$88,607 ( $\$78,762 \times 1.125 = \$88,607$ ).

Since there is no overtime supplement for a basic regular tour of duty, the IRR will only post the effective date with the annual rate of retirement-creditable basic pay, which includes an applicable locality payment or special rate supplement.

*Example of posting for basic regular tour of duty*

<b>Effective Date</b>	<b>Action</b>	<b>Base Pay</b>	<b>Remarks</b>
01-12-14	Gen Adj	78762	

Capped Pay

A Border Patrol agent’s overtime supplement is subject to the biweekly premium pay under 5 U.S.C. 5547. If an agent’s overtime supplement is limited by the biweekly premium pay cap, the base pay reported on the agent’s IRR should be the annualized capped amount. For this purpose, use the annual rate from which the biweekly premium cap was derived. For example, if the premium pay cap is based on the annual locality-adjusted rate for GS-15, step 10, for a given locality pay area; the base pay is that GS-15, step 10, annual locality rate. If possible, indicate the cap by adding “(capped)” in the Remarks section to document that the base pay reflected the application of the premium pay cap.

*Example*

<b>Effective Date</b>	<b>Action</b>	<b>Base Pay</b>	<b>Remarks</b>
01-12-14	Gen Adj	122530	
01-12-14	Gen Adj	149333	Incl. 25% BPOS (capped)

Note: In this example, the agent was at GS-15, step 3, in the “Rest of U.S.” locality pay area and entitled to a \$122,530 locality rate, which prevented the agent from receiving the full 25% overtime supplement given that the premium pay cap is based on the GS-15, step 10, locality rate of \$149,333. Thus, the base pay was recorded as \$149,333.

## **Control Period Date on the IRR**

The law requires a control period beginning 3 years before the agent reaches retirement age and service requirements (e.g., age 50 with 20 years of service) and ending when service as an agent ceases. Note that while the control period becomes effective as of the 3 year period prior to the earliest date the agent could retire under the special retirement provisions, the actual retirement can be much later. This may effectively extend the control period beyond 3 years depending upon when the agent actually retires.

During the control period, the agent's average overtime supplement percentage for any possible 3-year period must be consistent (i.e., within 2.5 percentage points) with the agent's career average overtime supplement percentage before the control period. The control period is meant to ensure agents do not artificially elevate their high-3 average salary by selecting a higher overtime supplement than their career average. (See 5 CFR 550.1615.)

If, as of January 10, 2016, the date that is 3 years before the agent first met age and service requirements for an immediate retirement has already passed, then the agent's control period is considered to have begun on January 10, 2016.

Agencies/Payroll providers must post the Control Period Date (i.e., period beginning date) and the employee's career average overtime supplement percentage in the Remarks area of the IRR along with the posting of mandatory data such as the Retirement SCD; Last Day in Pay; Unused Sick Leave; Military Deposit Status; FEHB and FEGLI codes, etc.

## **Inquiries**

If you have any questions about these requirements, please send an email to [FinancialBals@opm.gov](mailto:FinancialBals@opm.gov).

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