



TEXAS TECH UNIVERSITY™

Operating Policy and Procedure

OP 69.12: Sick Leave Donation

DATE: XXXXX, 2017

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish a method by which sick leave donation shall be processed, including review and approval prior to acceptance and payment.

REVIEW: This OP will be reviewed in March of odd-numbered years by the Managing Director of Payroll and Tax Services and Assistant Vice President for Human Resources with substantive revisions forwarded to the Vice President for Administration and Finance and Chief Financial Officer.

POLICY/PROCEDURE

1. Policy Statement

Texas Government Code Section 661.207 allows state employees to voluntarily transfer their accrued sick leave to another state employee within the same state agency. The recipient employee must:

- a. be employed in the same state agency as the donor employee; and
- b. have exhausted the employee's sick leave, including any time the individual may be eligible to withdraw from a sick leave pool.

An employee is prohibited from providing or receiving remuneration or a gift in exchange for donated sick leave under Texas Government Code Section 661.207.

2. General Information

Employees may use donated hours for several reasons, including 1) during the six month eligibility period for sick leave pool purposes, 2) after the employee has exhausted his or her sick leave pool benefit, and 3) for less catastrophic conditions which do not rise to the level of the need for sick leave pool hours. Donated sick leave will be used in accordance with sick leave regulations, with the exception that donated hours cannot be used for retirement credit.

Sick leave donations will be considered a taxable event to the donor unless the situation qualifies as a catastrophic illness or injury pursuant to IRS guidelines.

3. Definitions

- a. A **catastrophic illness or injury** is a severe condition or combination of conditions affecting the mental or physical health of the employee or the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and forces the employee to exhaust all accrued leave and lose compensation.

- b. A **severe condition** or combination of conditions is one that:
- (1) Will result in death or is a severely debilitating condition that will result in the individual not meeting the essential functions of his/her job if not treated promptly or at regularly scheduled intervals (e.g., chemotherapy treatments, radiation treatments, etc.); or
 - (2) Has been designated as terminal.
- c. **Licensed practitioner** means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license.
- d. **Immediate family** is defined as those individuals related by kinship, adoption, marriage, or foster children who are so certified by the Texas Department of Protective and Regulatory Services who are living in the same household. If not living in the same household, an immediate family member is strictly limited to the employee's spouse or child who is totally dependent upon the employee for personal care and services on a continuing basis as a direct result of a documented catastrophic medical condition.
- e. **State Agency** is defined as each separate component institution within the Texas Tech University System.

4. Procedure to apply Sick Leave Donation

a. Donor

An employee electing to donate sick leave directly to another employee will submit a completed Sick Leave Donation Donor form to Payroll & Tax Services. The donor can elect one of two options: 1) to donate only if donation is considered tax exempt, or 2) donate regardless of donation qualifying as tax exempt.

If donating regardless of tax exemption and the donation is determined taxable, the donor will be taxed on their next on-cycle payroll up to 32.65%, with an additional tax of 0.9% if the additional Medicare wage threshold has been met for the calendar year. Tax withholding applies as follows:

- 25% - Federal Income Tax Withholding (FIT)
- 6.2% - Social Security tax (FICA)
- 1.45% - Medicare tax (FICA)

*Tax rates are set forth in IRC §1401, 3101, and 3111 and are current for 2017.

The dollar value of the donated sick leave will be included in the donor's income reported by Texas Tech University System on the annual Form W-2.

The donor will receive notification from Payroll & Tax Services when the donation has processed, sick leave hours adjusted, and any applicable taxes applied to the next on-cycle payroll.

b. Recipient

Payroll & Tax Services will notify the recipient and recipient's supervisor of approved eligible donated hours. The notification to the employee will include how to report donated hours used (non-exempt) or leave taken (exempt).

A recipient receiving and utilizing donor tax-exempt hours will have donated leave hours treated as regular pay. The recipient's standard and optional deductions will be withheld when hours are used and paid out.

Unused Sick Leave Donation hours cannot transfer to another agency or employee and cannot be paid out upon termination of job. The recipient cannot receive service credit in the Employees Retirement System of Texas for any unused Sick Leave Donation hours on the last day of employment.

c. Review and Application of Sick Leave Donated Hours

Human Resources will review the recipient's eligibility for leave donation and provide a determination based on criteria provided in section 1 above.

Payroll & Tax Services will determine taxability of donation once HR approves eligibility and will apply eligible donated hours to the recipient's leave balance. The leave balance will not be available for view in the employee's time sheet/leave report. Payroll & Tax Services will notify the employee, employee's supervisor, and HR of available donated leave and procedures for reporting donated leave used.

If Payroll & Tax Services determines the donation is taxable to the donor, the applicable taxes will be calculated and applied to the donor's next on-cycle payroll as well as including the value of the Sick Leave Donation in the donor's reportable wage income. The donor's labor FOP(s) will be charged with the proportional FICA match, including grant funds.

5. Review procedure after Sick Leave Donation applied

a. Payroll & Tax Services will perform the following reviews to ensure Sick Leave Donation reported meets eligibility requirements and pays correctly:

- (1) Review each payroll process that includes Sick Leave Donation hours to ensure that recipient has exhausted available sick leave and sick leave pool.
- (2) Remove Sick Leave Donation available hours upon job transfer between Texas Tech University System institutions (agencies) or upon termination.
- (3) Exclude Sick Leave Donation hours from payout upon death.
- (4) Adjust the recipient's Sick Leave Donation balance if the recipient has a pay rate change, if the donation was taxable to the donor. Adjustment is required to ensure the recipient's Sick Leave Donation hours are equivalent to the gross taxable benefit given from donor.

6. Forms

All related forms are available on the Payroll & Tax Services website:
<http://www.depts.ttu.edu/payroll/forms/>

7. Authoritative References

Texas Government Code, Section 661.201

8. Right to Change Policy

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.