



State Human Resources Division Fact Sheet

Leave Accrual and Payout Scenarios
Last Reviewed: April 13, 2026

1. Overview

State employees as defined in Title 2, Chapter 18, Part 6, MCA, earn annual leave (commonly referred to as “vacation leave”) and sick leave and may earn exempt or nonexempt compensatory time. This fact sheet summarizes statutory and state-policy accrual and payout requirements for each leave type and provides sample leave payout scenarios. It does not change any rights established under Montana law, CBA, or formal state policy.

2. Annual Vacation Leave (2-18-611, 2-18-612 & 2-18-617, MCA)

- **Accrual:** Vacation leave is accrued by years of qualifying service. Full-time employees accrue between 15 and 24 days (120–192 hours) per year, depending on years-of-service.
- **Maximum carryover:** Employees may accrue up to two times their vacation accrual limit into the next year. Any hours above the two times vacation accrual limit are considered “excess.”
- **Excess leave use:** Excess vacation leave must be used within 90 days after year-end or forfeited. Management may, upon denial of an employee’s request to use excess leave within the 90-day period, grant an extension for the employee to use the excessive leave by the end of the calendar year. Any excess leave not used by end of the extension must be forfeited. Written documentation of the denial and extension is required.
- **Payout:** Employees who terminate receive cash compensation at their current regular rate for unused vacation leave. Payouts are limited to the maximum amount an employee is statutorily eligible to accrue including any excess leave that remains under an extension. Payouts are taxed as lump-sum payments. Employees must meet the six-month waiting period to be eligible for payouts and transferring employees are not eligible for payouts.
- **Maximum Payout:** The maximum possible vacation leave payout at separation is three times the employee’s current vacation accrual rate. This is possible if excess leave is managed and accruals remain within statutory limits. The maximum vacation payout at separation of three times an employee’s accrual (two years banked plus the current year) is paid at 100% of the employee’s regular rate.

Vacation Payout Samples

Scenario 1: full-time; final rate \$30/hour; annual accrual 15 days = 120 hours.

- Max-accrual hours: $3 \times 120 = 360$ hours.
- Payout: $360 \times \$30 = \$10,800$.
- Taxes: \$10,800 taxed as a lump-sum wage payment using supplemental withholding rates.

Scenario 2: full time; final rate \$35/hour; annual accrual 18 days = 144 hours; accrued annual leave is 439.83 hours.

- Max accrual hours: $3 \times 144 = 432$ hours.
- Payout: $432 \times \$35 = \$15,120$ (7.83 accrued hours ineligible for payout).
- Taxes: \$15,120 taxed as a lump sum wage payment using supplemental withholding rates.

3. Sick Leave (2-18-618, MCA)

- **Accrual:** Full-time employees accrue 12 days of sick leave (96 hours) per year, with no statutory maximum on the number of hours employees may accrue.
- **Payout:** Employees who terminate receive cash compensation for 25% of their total accumulated sick leave. Payouts are taxed as lump-sum wage payments. Employees must meet the three-month waiting period to be eligible for payouts and transferring employees are not eligible for payouts.

Sick Leave Payout Sample

Scenario: final rate \$30/hour; accrued sick leave is 800 hours.

- Full value: $800 \times \$30 = \$24,000$.
- Payout at 25%: $\$24,000 \times 0.25 = \$6,000$.
- Taxes: \$6,000 taxed as a lump-sum wage payment using supplemental withholding rates.

4. Nonexempt Compensatory Time

- **Accrual:** FLSA non-exempt employees may earn nonexempt compensatory time instead of cash overtime. Eligible employees earn 1.5 hours of nonexempt compensatory time for each hour in a pay status over 40 hours in a workweek. Management is not required to offer nonexempt compensatory time and must have an agreement if allowing nonexempt compensatory time. If management offers nonexempt compensatory time, employees voluntarily choose between accruing nonexempt compensatory time or receiving overtime pay.
- **Limit:** Federal rules and state policy limit non-exempt compensatory time accrual to 240 hours (representing 160 overtime hours at time and a half). Agencies may adopt lower limits. When employees reach the established limit (240 hours or less per agency policy), additional overtime must at the overtime rate.
- **Payout:** Employees who terminate receive compensation at their current regular rate for accumulated non-exempt compensatory time. Management may pay non-exempt compensatory time at transfer or on other occasions in accordance with state nonexempt compensatory policy. Payouts are taxed as lump-sum wage payments.

Nonexempt Compensatory Payout Sample

Scenario: final rate \$25/hour; nonexempt comp-time balance 120 hours at separation.

- Payout: $120 \times \$25 = \$3,000$
- Taxes: \$3,000 taxed as lump-sum wage payment using supplemental withholding rates.

5. Exempt Compensatory Time

- **Accrual:** FLSA exempt employees may earn one hour of exempt compensatory time for each hour in a pay status over 40 hours in a workweek.
- **Maximum carryover:** Exempt compensatory time balances exceeding 120 hours are considered “excess.”
- **Excess leave use:** Excess compensatory leave must be used within 90 days after year-end or forfeited. Management may, upon denial of an employee’s request to use excess leave within the 90-day period, grant an extension for the employee to use the excessive leave by the end of the calendar year. Any excess leave not used by end of the extension is forfeited. Written documentation of the denial and/or extension is required.
- **Payout:** Exempt compensatory time is not eligible for payout. Management may approve use of exempt compensatory time to extend an employee’s termination date up to a maximum of 120 hours in accordance with state exempt compensatory time policy.

6. Special Situations

Appointed Positions: The state annual vacation and sick leave statutes in Title 2, Chapter 18, Part 6, MCA, apply to most appointed positions, including agency directors. For appointed positions covered by these statutes, the leave accrual, cap, and payout rules described in this fact sheet apply. The Executive Branch prohibits exempt compensatory time payouts for all positions eligible to accrue exempt compensatory time.

Banked Holidays: Banked holidays (excluding grandfathered banked holidays) must be used by March 31 in the year after the banked holiday hours were earned. Bank holidays not used by March 31 must be paid out and are taxed as lump-sum wage payments.

Montana Voluntary Employees’ Beneficiary Association (VEBA): Employees who are members of a VEBA plan will not receive sick leave payouts and may not receive annual leave payouts. Their sick and/or annual leave payouts will be contributed to their VEBA plan according to the contribution rules established by the plan.

Reductions in Force (RIF): Employees affected by a reduction-in-force who choose State Employee Protection Act benefits may retain sick and/or annual vacation leave until the end of the two-year State Employee Protection Act benefit period.

7. Resources

- [Title 2, Chapter 18, Part 6, MCA](#)
- [Annual Vacation Leave Policy](#)
- [Exempt Compensatory Time Policy](#)
- [Overtime and Nonexempt Compensatory Time Policy](#)
- [Sick Leave Policy](#)