

NHS Pensions - Earnings Cap (1995 Section and 2008 Section)

From 1 June 1989 HM Revenue and Customs (HMRC) introduced an upper limit for pensionable pay known as the Earnings Cap. Occupational pension schemes such as the NHS Pension Scheme were also required to operate the earnings cap. The cap applied to new entrants to occupational pension schemes and the limit was increased from 6 April each year, in line with inflation.

The Finance Act 2004 – Removal of the Cap

With effect from 6 April 2006 HMRC no longer imposed a compulsory limit on pensionable pay. However the NHS Pension Scheme continued to operate its own cap until 31 March 2008. Scheme membership built up from 1 April 2008 onwards is no longer subject to a limit on pensionable pay.

Although it has now been removed, the NHS earnings cap may still apply to the calculation of Scheme retirement benefits, Added Years contracts and transfer payments for capped membership.

Calculating the NHS Earnings Cap

Before 6 April 2006 HMRC announced the compulsory pensionable earnings cap to be applied in each tax year. For the purpose of the NHS cap the former HMRC earnings cap is revalued each tax year in line with inflation. NHS Pensions publish the revised Earnings Cap for employers each year.

Applying the earnings cap

Officer members

Pensionable pay and final year's pensionable pay for Officer members is calculated in the same way as it would be for any uncapped member. However where the cap applies an Officer member's pension contributions and pension benefits are limited to the Earnings Cap in the relevant tax year. The tax year runs from 6 April to 5 April, therefore when

assessing contributions payable or final year's pensionable pay where the period spans more than one tax year the cap must be apportioned. See examples below.

Practitioners/non GP providers

GPs and non-GP providers certify their earnings for each Scheme year using the relevant tax returns for that year. Therefore pensionable earnings generally certified for any Scheme year would in fact correspond to the pensionable earnings as they relate to the corresponding tax year. i.e. certificates of pensionable earnings from 1 April 2004 to 31 March 2005 actually equated to the pensionable earnings from 6 April 2004 to 5 April 2005.

More information about Practitioner pensionable pay is available on the Practitioner webpage: www.nhsbsa.nhs.uk/member-hub/information-practitioner-locum-and-non-gp.

Part time members

Part time members receive benefits based on the whole time equivalent pensionable pay. Where the whole time rate exceeds the earnings cap pensionable pay is limited to the appropriate proportion of the cap. Contributions are therefore based on the proportion of the earnings cap even when actual pay is less than the cap.

Treatment of the transfer credit in the NHS Pension Scheme

When a member transfers benefits in to the NHS Pension Scheme from a public sector (Club) scheme whether membership was subject to the earnings cap in the transferring scheme determines how the membership credit resulting from the transfer in will be treated in the NHS Pension Scheme. Periods that were subject to the cap (even if the earnings were below the cap) continue to be subject to the cap in any future NHS benefit calculations or transfer out. Those that were not subject to the cap remain unaffected by the earnings cap.

Added Years

The contributions and benefits from an Added Years contract are either wholly subject to the earnings cap or completely free from it, they are never apportioned. If the contract:

- started before 1 April 2008, during a period when the member was subject to the earnings cap – All of the Added Years credit is based on the Notional Earnings Cap (even though standard membership contributions are uncapped from 1 April 2008).
- started on or after 1 April 2008 – All of the Added Years credit is based on uncapped earnings (even if the member was subject to the cap in respect of earlier periods of membership).
- started and was completed before 1 April 2008, during a period when the member was not subject to the earnings cap – based on uncapped earnings.

Who was classed as a new entrant – subject to the Earnings Cap?

For the purposes of the earnings cap a 'new entrant' to the NHS Pension Scheme was someone who:

- joined the Scheme for the first time on or after 1 June 1989
- joined the Scheme before 1 June 1989 but who had a break in pensionable employment of 12 months or more that ended on or after 1 June 1989
- left or opted out of the Scheme and took a refund of contributions or a transfer out, then rejoined the Scheme on or after 1 June 1989.

Members were not treated as new entrants in the NHS Pension Scheme and therefore not subject to the earnings cap if they:

- joined before 1 June 1989 unless they later had a break in pensionable employment of 12 months or more that ended on or after that date
- joined before 1 June 1989 and had a break of 12 months or more due to secondment, unpaid absence, maternity or adoption leave, further conditions apply
- had one or more breaks in pensionable employment of less than 12 months
- took a refund of contributions, returned to NHS pensionable employment within 12 months and re-paid the refund within the prescribed time limits

- transferred in membership from another health service scheme and joined the England and Wales Scheme within 12 months of leaving the previous scheme, but only if they were not subject to the earnings cap in that Scheme
- moved from the NHS to the Universities Superannuation Scheme (USS) before 1 June 1989 and returned to NHS pensionable employment before 1 June 1994
- from 1 April 1996, moved between the NHS and the Civil Service (Department of Health only), unless they were subject to the cap before the move
- joined as a result of a TUPE transfer, but only if they were not subject to the earnings cap in the transferring Scheme
- opted out or delayed joining due to pension miss selling

2008 Section of the NHS Pension Scheme

Membership of the 2008 Section is not normally subject to the Earnings Cap but there are exceptions covering periods of membership that were subject to the cap before being transferred in:

- from a public sector (Club) scheme
- as a result of a bulk transfer

or

- the member moved from the 1995 Section under the Choice exercise.

The membership credit resulting **only** from the part of the transfer that had previously been subject to the earnings cap will remain subject to it in the 2008 Section. All other periods are unaffected.

Example 1

Contributions due in respect of Scheme years ending 2007 and 2008 for a whole time officer member who exceeds the cap.

Pensionable pay is limited to 6% (the non-manual worker contribution rate prior to 1 April 2008) of the member's pensionable pay as follows:

Earnings cap for relevant tax years:

6 April 2005 to 5 April 2006 £105,600

6 April 2006 to 5 April 2007 £108,600

6 April 2007 to 5 April 2008 £112,800

Calculation of contributions Scheme year:

01/04/2006 – 31/03/2007

$(5/365 \times \text{£}105,600) \text{ £}1446.57 \text{ pay} \times 6/100 = \text{£}86.79$

$(360/365 \times \text{£}108,600) \text{ £}107112.32 \text{ pay} \times 6/100 = \underline{\text{£}6426.73}$

£6513.52

01/04/2007 – 31/03/2008

$(5/365 \times \text{£}108,600) \text{ £}1487.67 \text{ pay} \times 6/100 = \text{£}89.26$

$(360/365 \times \text{£}112,800) \text{ £}111254.79 \text{ pay} \times 6/100 = \underline{\text{£}6675.28}$

£6764.54

Example 2

This is an example of how to calculate a pensionable pay figure where the earnings cap needs to be apportioned as it crosses 2 Tax Years:

Earnings Cap for relevant years:

06/04/2006 to 05/04/2007 £108,600

06/04/2007 to 05/04/2008 £112,800

We need to calculate a pensionable pay figure for the period 01/04/2007 to 31/03/2008

01/04/2007 – 05/04/2007

$(5/365 \times \text{£}108,600) = \text{£}1487.67$

06/04/2007 – 31/03/2008

$(360/365 \times \text{£}112,800) = \text{£}111,254.79$

Total = $\text{£}1487.67 + \text{£}111,254.79 = \text{£}112,742.46$

Earning cap limits:

01.06.89 to 05.04.90	£ 60,000
06.04.90 to 05.04.91	£ 64,800
06.04.91 to 05.04.92	£ 71,400
06.04.92 to 05.04.93	£ 75,000
06.04.93 to 05.04.94	£ 75,000
06.04.94 to 05.04.95	£ 76,800
06.04.95 to 05.04.96	£ 78,600
06.04.96 to 05.04.97	£ 82,200
06.04.97 to 05.04.98	£ 84,000
06.04.98 to 05.04.99	£ 87,600
06.04.99 to 05.04.00	£ 90,600
06.04.00 to 05.04.01	£ 91,800
06.04.01 to 05.04.02	£ 95,400
06.04.02 to 05.04.03	£ 97,200
06.04.03 to 05.04.04	£ 99,000
06.04.04 to 05.04.05	£ 102,000
06.04.05 to 05.04.06	£ 105,600
06.04.06 to 05.04.07	£ 108,600
06.04.07 to 05.04.08	£ 112,800
06.04.08 to 05.04.09	£ 117,600
06.04.09 to 05.04.10	£ 123,600
06.04.10 to 05.04.11	£ 123,600
06.04.11 to 05.04.12	£ 129,600
06.04.12 to 05.04.13	£ 137,400
06.04.13 to 05.04.14	£ 141,000
06.04.14 to 05.04.15	£ 145,800
06.04.15 to 05.04.16	£ 149,400
06.04.16 to 05.04.17	£ 150,600
06.04.17 to 05.04.18	£ 154,200
06.04.18 to 05.04.19	£ 160,800
06.04.19 to 05.04.20	£ 166,200
06.04.20 to 05.04.21	£170,400
06.04.21 to 05.04.22	£172,800

Earnings Cap figures for future years will be included in the Employer Newsletter.

