

# NHS Pensions

# NHS Pensions GP Certificate of pensionable profits 2023/24 basis period reform guidance note

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## Introduction

Traditionally, self-employed/partnership businesses in the UK have been taxed within a tax year, for a standard operating year, on the tax adjusted profits of the accounting year end that falls within the tax year. For example, a business with an accounting year end of, say, 30 June would be taxed in 2022/23 on the profits for the year ended 30 June 2022. There were intricate rules concerning the opening years of a newly self-employed person in such a business that did not use a tax year/31 March year end that could mean some profits were taxed twice. There was relief for this double taxation at the point an individual ceased in business or left a partnership of which they were a member. The profits that were taxed twice, and the consequent relief available, are known as overlap profits.

Legislation has been introduced recently that means that, from 2024/25, all self-employed/partnership businesses will be taxed upon their profits in line with the tax year rather than any different accounting period. 2023/24 is to act as a transition year, whereby the additional profits to 5 April 2024/31 March 2024 will be brought into tax, with relief provided for the overlap profit element. As the additional element of taxable profits could prove to be significant, the government permits the spreading of the additional profits over as long as a 5-year period, although an election can be made to accelerate this if desired.

Since the introduction of a new GP contract on 1 April 2004 pensionable profits in any NHS scheme year are based upon the NHS taxable profits for that year using figures available from either personal and/or partnership tax returns and information available from accounts working papers. In the same way that there may be taxable profits that have been taxed twice in the opening years, there may also be pensionable profits that have been pensioned twice, leading to the creation of pension overlap. Maintaining the convention of the pensionable profits following the taxable profits, 2023/24 will also be a transition year allowing for the claiming (deduction) of pension overlap.

This guidance note has been prepared to assist with the 2023/24 transition year.

## Additional profits and claiming of pension overlap

All members with an accounting year end other than 5 April/31 March should have an entry in box 35c of the 2022/23 Type 1 pension certificate indicating the amount of pension overlap to be carried forward into 2023/24.

The 2023/24 Type 1 certificate has been amended to include bringing in additional pensionable profits for the period to 5 April/31 March and claiming relief for the pension overlap.

It is envisaged that the basis period reform changes will mean that most GP practices will amend their accounting year end to 31 March, but this is not a necessity. It is possible for practices to retain the previous year end. Completion of tax returns and pension certificates in this case will entail the apportionment of profits for each year to match the tax year.

This may also involve the use of estimated figures for the second period if accounts have not been finalised at the time the submission of tax returns and pension certificates is required. Where this is the case, when accounts are finalised an amended certificate to replace the previous provisional one will need to be prepared and submitted.

If a practice year end is to change, this can be achieved by one of two methods. A single long period of account can be produced covering the whole period to 5 April/31 March 2024, or a 12-month period of account to the usual year end may be produced, with a separate short period of account to the end of the tax year.

Examples and other possible scenarios, for example where losses arise rather than profits, will follow in this guidance.

The general principle for calculating pensionable earnings has been that the pension treatment follows the tax treatment. The Department of Health and Social Care (DHSC) have confirmed that this approach will continue in the transition year of 2023/24. There will, however, be certain circumstances in which this may differ.

Regardless of how the accounts are prepared, the profits for pension purposes will need to be split in 2023/24 between the standard period to the normal accounting year end date and the transition period being the additional one to the end of the tax year. The pension overlap will initially be set against the transition period profit.

## Spreading

The tax rules permit the spreading of the additional profits after overlap over a period of up to 5 years, with 5 years as the default setting under the tax rules.

Although there is no direct correlation between tax circumstances and pension circumstances, DHSC have confirmed that the additional pensionable profits arising in the transition period will be treated for pension purposes by following the same treatment as the additional taxable profits.

For instance, a partner who remains as a fully taxable partner throughout the period and wishes to spread the additional taxable profits equally over 5 years will be required to spread the additional pensionable profit equally over the same period.

Should a GP decide to accelerate the taxing of income in 2023/24, any remaining additional taxable profits will be spread evenly over the remaining four years of the spreading period. Additional pensionable profits will then be similarly spread by the same percentage. Further acceleration can occur in 2024/25 and later years with any remaining spread evenly over the rest of the period.

## Examples

### Standard year ended 31 October 2023, together with a further short period of account covering the period 1 November 2023 to 31 March 2024

The pensionable profit for the year ended 31/10/2023 will need to be calculated in the normal way. The boxes on the Type 1 certificate reflecting tax adjusted income and expenses have remained the same and should be used as normal. The year end will also have details of its own NHS and non-NHS income and will have its own non-NHS expense ratio add back. A parallel set of boxes has been introduced to include the profits for the additional short period to 31/03/2024 and the pension overlap will initially be deducted from this period. The transition period will also have its own non-NHS expense ratio dependent upon its own circumstances and the overlap profit deducted after this has been done.

Pensionable profits for the year ended 31/10/2023 125,788

Pensionable profits for the period 01/11/2023 to 31/03/2024 53,652

Less pension overlap brought forward (33,997)

Transition pensionable profits 19,655

If the GP had £30,000 of taxable profit for the transition period, and spreads this equally over five years at £6,000 per year, they will be required to pension an additional £3,931 in each of the years 2023/24 to 2027/28, being the £19,655 above divided by 5.

Should the GP accelerate the taxing of transitional income so that £10,000 is taxed in 2023/24, £20,000 will remain to be spread over the remaining 4 years at £5,000 per annum. £10,000 represents 33.33% of the transition profits for tax. In this case 33.33% of the transition pensionable profit of £19,655 will be pensioned in 2023/24. So, £6,552 transition profits will be pensioned in 2023/24, with the remaining £13,103 being spread evenly over the remaining 5 years.

### Standard year ended 31 October 2023 has been extended and a long 17-month period of account produced covering 1 November 2022 to 31 March 2024

A computation of pensionable profits for the entire 17-month period will be performed, with each element of NHS, non-NHS and expenses then time apportioned between the 365 days to 31/10/2023 and the 151 days to 31/03/2024. The non-NHS expense ratio for both periods will consequently be the same in this instance.

Pensionable profits for the 17 months (516 days) to 31/03/2024 184,672

Time apportion: 365/516 for the year ended 31/10/2023 130,630

Time apportion: 151/516 for the period ended 31/03/2024 54,042

Less pensionable overlap brought forward (36,917)

Transition pensionable profits 17,125

If the GP had £45,000 of taxable transition profit and accelerated so that £20,000 is taxed in 2023/24, this represents 44.44% of transition profits. The GP would then need to accelerate the pensioning of £7,611 of transitional pensionable income into 2023/24, £9,514 will then be carried forward and spread at £2,378 per annum over the next 4 years.

From the tax side there would be £25,000 of additional profit to be carried forward, potentially being taxed at £6,250 in each of the years 2024/25 to 2027/28. In 2024/25, however, the GP may decide to accelerate the tax again so that £10,000 is taxed. This represents 40% of the brought forward figure of £25,000. £15,000 is then carried forward to be spread over three years at £5,000 per annum.

In this case 40% of the brought forward pensionable profit figure of £9,514 must be pensioned in 2024/25, being £3,806, with the remaining £5,708 being carried into 2025/26 and spread over the next 3 years.

### A standard year end of 31 December is maintained

In this instance, the standard period will be based upon the accounts for the year ended 31/12/2023 in the normal way, with its distinct non-NHS expense ratio. For the transition period, a proportion of the figures for the year ending 31/12/2024 will be required based upon 90/365 of the full year figures. By the deadline date for submission of the 2023/24 Type 1 certificate at 28 February 2025, it may be unlikely that the accounts for the year ended 31/12/2024 will have been finalised. A 2023/24 certificate must, nevertheless, be submitted by 28/02/2025 containing provisional figures for the period to 31/03/2024.

When the accounts and tax for the year ending 31/12/2024 are finalised, the pension position must be re-assessed and an amended 2023/24 certificate submitted to PCSE. As this would be a laborious annual requirement, it is envisaged that most practices will permanently change their year-end to 5 April/31 March.

## Where specific guidance may be needed

It is expected that the examples will cover most GPs’ circumstances. There are, however, several situations where specific guidance may be needed:

1. a pensionable profit occurs in the standard period, but the deduction of pension overlap in the transition period produces a loss
2. a tax trading loss occurs in the standard period, but there is a pensionable profit after overlap deduction in the transition period
3. a tax trading loss occurs in the standard period and there is a loss in the transition period after deduction of pension overlap
4. a GP leaves the practice or retires
5. a GP opts out (or in and out)

### a profit occurs in the standard period, but the deduction of pension overlap in the transition period produces a loss

Pension overlap reflects income that has been pensioned twice and must be fully relieved.

Pensionable profit for the year ended 30/09/2023 98,630

Pensionable profit for the period 01/10/2023 to 31/03/2024 42,345

Less pension overlap (57,293)

Transition loss (14,948)

The transition loss of £14,948 has been entirely created by the utilisation of pension overlap and must be relieved in 2023/24 by setting it against the pensionable profits of the standard period of £98,630. Net pensionable profits of £83,682 will therefore arise in 2023/24.

The above will occur regardless of taxable profits being spread over 5 years. The pension loss created by overlap must be relieved at the earliest opportunity.

Should the transition loss exceed the standard period pensionable profits, and a loss remains, then the balance must be carried back to 2022/23 and an amended certificate submitted for that year.

### a tax trading loss occurs in the standard period, but there is a pensionable profit after overlap deduction in the transition period

Where a tax trading loss occurs in a period, the pensionable profit is treated as zero.

Pensionable profit for the year ended 30/06/2023 Nil

Pensionable profit for the period 01/07/2023 to 31/03/2024 87,424

Less pension overlap (66,479)

Transition pensionable profits 20,945

The pensionable position in this instance will follow the tax position. If the GP has £15,000 of taxable transition profit and spreads this over 5 years at £3,000 per year, the GP must spread the pensionable transition profit of £20,945 and pension £4,189 each year over 2023/24 to 2027/28.

### a tax trading loss occurs in the standard period and there is a loss in the transition period after deduction of pension overlap

As in example (b) above, where a trading loss occurs, the pensionable pay is treated as zero.

Pensionable profit for the year ended 31/12/2023 Nil

Pensionable profit for the period 01/01/2024 to 31/03/2024 32,768

Less pension overlap (46,725)

Transition loss (13,957)

There is an overall pension loss for the transition year of £13,957. As this is entirely created by the utilisation of pension overlap that represents income that has previously been pensioned twice, it must be relieved. The loss of £13,957 must therefore be carried back to set against pensionable profits of 2022/23, or earlier if there are no pensionable profits in 2022/23, and an amended Type 1 certificate will need to be submitted for that earlier year.

### d. a GP leaves the practice or retires

There are various permutations regarding leavers and retirement, including partial retirement, leaving one practice and joining another, 24-hour retirement, and so on. Where a GP leaves a practice and does not return to pensionable membership, all pension overlap is relieved at the point of leaving/retiring (including 24-hour retirement) and should a pension loss occur, the loss carried back first again the standard period and then earlier periods by way of amended certificates if a loss still arises.

Under partial retirement, NHS Pension Scheme membership does not cease. The rules say that work commitment must be reduced by at least 10% and this will reflect in reduced profit allocation after the point of partial retirement. The partial retirement itself will have no impact on how pension overlap is claimed. As membership of the Scheme continues after drawing the benefit, the pension overlap is claimed in the transition period in the same way as the examples in the earlier part of this guidance, as determined by the 12 month and short accounting periods or the apportionment of a longer period.

### a GP opts out (or in and out)

The general principle remains that opting out of the Scheme represents a cessation of membership that should crystallise the relief of pension overlap. A pragmatic approach may be needed depending upon the circumstances and the combination of opt outs, ins and outs and so on, and the length of the accounting period(s) in place. The appendix gives some examples for a variety of such scenarios.

## Summary

It should be noted that, in all circumstances, the full amount of pensionable pay will only be pensioned once, but, as with the tax position, this may occur across multiple years.

GPs and their advisers need to be aware that the restrictions in section 216 and 217 ITTOIA 2005 that limited changes in accounting period to a maximum of 18 months do not apply for 2023/24, so it would be possible to have, for example, a 23-month period. The rules that restrict a period of account to 18 months for capital allowances, however, do still apply (section 6(6) CA Act 2021).

In determining whether to accelerate taxable transition profits, GPs and their advisers will need to consider the full implications concerning pension benefits, collection of shortfalls of pension contributions and the tax relief position from the collection of such shortfalls along with potential cashflow issues for additional tax and pension contributions liabilities.

## Appendix: Opt outs

In a position where the GP remains a fully taxable member throughout, we may see:

### Standard year end 30/06. GP membership follows this pattern:

Opted in 01/07/2022 – 30/09/2022 (92 days)

Opted out 01/10/2022 – 28/02/2023 (151 days)

Opted in 01/03/2023 – 31/12/2023 (306 days)

Opted out 01/01/2024 – 31/03/2024 (90 days)

Total period covers 639 days.

There are 2 points of opt out in the overall accounting period that need to be considered for the 2023/24 certificate, being 30/09/2022 and 31/12/2023.

If accounts are prepared for the year ended 30/06/2023 and then another for the period 01/07/2023 to 31/03/2024, we see the following movement:

Opted in 01/07/2022 – 30/09/2022 (92 days)

Opted out 01/10/2022 – 28/02/2023 (151 days)

Opted in 01/01/2023 – 30/06/2023 (122 days)

Total opt in period 214 days, overall period 365 days.

Opted in 01/07/2023 – 31/12/2023 (184 days)

Opted out 01/01/2024 – 31/03/2024 (90 days)

Total opt in period 184 days, overall period 274 days.

As the GP was opted in at the end of the standard 30/06/2023 accounting year end, it would seem appropriate to apportion the 365 days year end by 214/365 and enter those details in the standard period boxes. The additional period of 01/07/2023 to 31/03/2024 would then need to be apportioned in the parallel transition period boxes by 184/274.

The overlap is crystalised at the date of the first crystallisation event, in this case 30/9/2022, and will be set off against the standard period’s pensionable profit.

No further overlap is created when the GP opts back in on 1 July 2023 and so there is no overlap to use against the transition profits at 31/12/2023.

Overall NHS profit year ended 30/06/2023 125,861

Time apportioned 214/365 73,792

Less pension overlap (in full) (87,692)

Pensionable loss in the standard period (13,900)

Overall NHS profit period ended 31/03/2024 85,218

Time apportioned 184/274 57,227

Total of pensionable profits in the 2023/24 pension year will then be

£57227 - £13900 = £43,326

There may well be a significant amount of transition period taxable profit that is spread over 5 years, but as the opt out for pension purposes occurred in the standard period the overlap is fully utilised.

Had a long set of accounts been prepared, the total 639-day period would need apportioning 214/639 days to enter for the standard period boxes and 184/639 in the transition period boxes, with the pension overlap claimed against the standard period element.

### Standard year end 30/06. GP membership follows this pattern:

Opted in 01/07/2022 – 30/04/2023 (304 days)

Opted out 01/05/2023 – 28/02/2024 (304 days)

Opted in 01/03/2024 – 31/03/2024 (31 days)

Total period covers 639 days.

There is only one opt out point in the overall accounting period that needs to be considered for the 2023/24 certificate, being 30/04/2023 and this falls within the standard period accounting year end of 30/06/2023.

Overall NHS profit year ended 30/06/2023 125,861

Overall NHS profit period ended 31/03/2024 85,218

Pensionable profit within year ended 30/06/2023 for opted in period

125,861 x 304/365 107,325

Less pension overlap at 30/04/2023 (87,692)

Standard period pensionable profits 19,633

Pensionable profit within period ended 31/03/2024 for opted in period

85,218 x 31/274 9,641

The total pensionable profit for the period is potentially £29,274 (19,633 + 9,641), but if the GP has taxable profits that are spread over 5 years, the £9,641 must also be spread over 5 years at £1,928 per year.

### Standard year end 30/06. GP membership follows this pattern:

Opted in 01/07/2022 – 30/06/2023 (365 days)

Opted in 01/07/2023 – 30/09/2023 (92 days)

Opted out 01/10/2023 – 31/03/2024 (182 days)

The overlap is crystalised at the opt out date being 30/09/2023

Overall NHS profit year ended 30/06/2023 125,861

Overall NHS profit period ended 31/03/2024 85,218

Pensionable profit within year ended 30/06/2023 for opted in period

125,861 x 365/365 125861

Less transition period loss (59,079)

Pensionable for the 2023/24 year 66,782

Pensionable profit within period ended 31/03/2024 for opted in period

85,218 x 92/274 28,613

Less overlap at 30/09/2023 (87,692)

Transition period loss carried back against standard period profit (59,079)

In this case even if the GP has taxable transition profits that are spread there is no pensionable profit to spread.