

The Rules for Working in Retirement

*Don't simply retire
from something;
have something
to retire to.*

Agenda

- Section 212 – Earnings Limitation
- Section 211 – Waivers
- Section 503.11 – Suspension of Benefits
- Disability Retiree – May I Work?

Section 212

Unlimited Earnings

You can have unlimited earnings in the following cases:

- Private employment
- Federal employment
- Any out-of-state employer
- Elected official, inspector of elections, poll or ballot clerk
- Commissioner of deeds, notary public or juror
- In the year you turn age 65 or older

Section 212

Consulting

You have no earnings limit as a consultant if your membership date is before 5/31/71.

- Definition: A consultant is an independent contractor (not an employee of the district) and cannot perform a function that normally would be performed by a teacher or administrator in that district.
- NYSTRS approval of consulting agreement is required.

Section 212

Limited Earnings

Your earnings are limited if you work for the following:

- Public School in New York State
- SUNY
- CUNY
- Community College in New York State
- New York State Agency

You must have a discernible break in employment after retirement.

Section 212

Earnings Limit

- Since 1/1/07, the earnings limit has been \$30,000 per calendar year.
- The limit is set by the NYS Legislature.
- It is the retiree's responsibility to monitor earnings.
- Prior approval of employment is not required.

Reporting 212 Earnings

- Working at NYSTRS Participating Employer
 - You provide district your EmplID #.
 - The district reports earnings to the System.
- Working at Non-NYSTRS Employer
 - By March 31, you must report earnings for previous calendar year to NYSTRS.
 - The earnings reporting form is supplied in the fall issue of the *Resource* newsletter.

Penalty for Exceeding the Section 212 Limit

There is a day-for-day loss of pension if you exceed the Section 212 limit.

- Actual Earnings – 212 limit = Excess Earnings.
- Excess Earnings / Daily Rate = Days in Excess.
- You lose one day of pension benefits for each day worked in excess of the limit.

Example of Exceeding the Section 212 Limit

- A retiree earned \$35,000 in 2008 at \$250 per day.
- Actual earnings of \$35,000 – \$30,000 Limit = \$5,000
- $\$5,000 / \$250 = 20$ days
- The retiree must repay 20 days of pension income.

Section 211 Waivers

- Employer Applies for the Waiver.
- Issuing Agency:
 - NYS Department of Education
 - Chancellor of NYC Department of Education
 - Trustees of the City University of New York
 - SUNY or Community College President
 - NYS or NYC Civil Service Commission

Recent Press

- Hot Topic – “Double Dipping”
 - Receiving a NYSTRS pension and a full salary from a school district.
- FOIL – Freedom of Information Law
 - Requires that NYSTRS release public information in response to a FOIL request (e.g., retiree name, retirement date, and Maximum pension amount).
 - Keeps private information private (e.g., EmplID #, date of birth, Social Security #, payment option selection, and beneficiary designation).

Section 211

New Regulations

After a 60-day waiver moratorium, the NYS Education Dept. issued new regulations:

- Waivers generally require a one-year break in employment to return to a previous employer.
- Waivers will generally be limited to one year.
- A waiver can only be renewed once except in extreme circumstances.

Section 211

New Legislation

Chapter 640 of the Laws of 2008:

- Increases disclosure of supervisory salaries.
- Increases reporting of employed retirees.
- Increases scrutiny in 211 application process.
- Requires a one-year break in employment prior to returning to work in the same or similar capacity.
- Makes knowingly false reporting a felony.

Limited Waivers

Earnings are limited if you return to work for an employer from whom you received pay from in the two years prior to retirement **AND** those earnings were used in your Final Average Salary (FAS).

You cannot renounce earnings from a former employer.

Limited Waiver Calculation

Calendar Year Earnings Are Limited To:

Final Average Salary (FAS) less your
Maximum retirement allowance

OR

If greater, the salary you would now be
receiving had you continued in service less
your Maximum retirement allowance.

(If you exceed the waiver provisions, a dollar-for-
dollar forfeiture of pension benefits applies.)

Limited Waiver Example

FAS / Next Contract Salary = \$90,000

Maximum Benefit = \$50,000

Limited Waiver

$\$90,000 - \$50,000 = \$40,000$

Earnings from District = \$45,000

You must pay back \$5,000 of pension income.

Reasons Why You May Want to Suspend Your Pension

- You will earn more than the Section 212 limit, and a waiver was not approved.
- You were offered your dream job.
- You have a financial hardship.
- A life change occurred (e.g., a divorce or loss of spouse)
- You realized you made a mistake and would rather work than be retired.
- You want to benefit from new legislation.

Section 503.11

Suspending Your Benefit

Pros

- Unlimited earnings.
- No waivers.
- Additional benefit after 2 or more years.
- After 5 or more years, either:
 - An additional benefit
 - OR
 - A recalculation with a new choice of option.

Section 503.11

Suspending Your Benefit

Possible Cons

- You are back working.
- You are not collecting a pension.
- There is a cost to continue your payment option coverage to protect a beneficiary.
- You may have to pay back the pension you received with interest.
- Loss of state incentive after 2 years of service credit.
- Date of Membership changes to last day of original tier.

Section 503.11

Example #1

- Original pension: \$14,000
 - Date of Retirement: January 28, 1995
 - 21 years of service credit
 - FAS: \$35,000
- Rejoined September 1, 1997
 - New Date of Retirement: July 1, 2004
 - Total combined credit: 30 years
(7 new years + 2 years Article 19 + 21 years from previous membership)
 - New FAS: \$95,000

Example #1 Decisions

- Option 1 – Combine and recalculate with payback
 - New benefit = \$57,000
 - Lump-sum payback = \$45,000
- Option 2 – Combine and recalculate with actuarial reduction
 - New benefit = \$57,000
 - Annual reduction = \$ 3,000
 - Net benefit = \$54,000
- Option 3 – Two separate benefits
 - Resume original benefit = \$14,000
 - Receive second benefit = \$ 8,000
 - Total pension income = \$22,000

Section 503.11

Example #2

- Original pension \$15,000
 - Date of Retirement: July 1, 1980
 - 35 years of service credit
 - FAS: \$28,000
- Rejoined September 1, 1985
 - New Date of Retirement: July 1, 2007
 - Total combined credit: 58 years of service (21 new years + 2 years Article 19 + 35 years from previous membership)
 - New FAS: \$95,000

Example #2 Decisions

- Option 1 – Combine & recalculate with payback
 - New Benefit = \$ 75,000
 - Lump-sum Payback = \$205,000

- Option 2 – Combine & recalculate with actuarial reduction
 - New benefit = \$ 75,000
 - Annual reduction = \$ 43,000
 - Net benefit = \$ 32,000

- Option 3 – Two separate benefits
 - Resume original benefit = \$ 15,000
 - Receive second benefit = \$ 45,000
 - Total pension income = \$ 60,000

Earnings for Disability Retirees

Tier 1 & 2

- Earnings are limited to FAS (or next contract salary) less retirement benefit.
- All earnings are considered, not just NYS public employment.
- A dollar-for-dollar pension reduction applies if the limit is exceeded.
- With Medical Board and Retirement Board approval, retiree may be restored to active service and return to work.

Earnings for Disability Retirees

Tier 3 & 4

- No gainful employment (i.e., "*physical and/or mental activity which a member is regularly able to engage in as a means of earning a living*")."
- With Medical Board and Retirement Board approval, may be restored to active service and return to work.

Resources

- Review the latest version of our *Working in Retirement* publication on our Web site at www.nystrs.org.
- Call us at (800) 356-3128, Ext. 6150.