

Earnings After Retirement

Code 9.3



2/09

By law, the amount of post-retirement income that you may earn in New York State public employment while collecting a service retirement allowance from the Teachers' Retirement System of the City of New York (TRS) may be restricted. Please read this brochure carefully to learn how these restrictions may affect you.

If you are a service retiree, you may be eligible for the Section 211 or Section 212 Waivers discussed in this brochure. Section 211 and 212 Waivers enable you to earn a specified amount of money in New York State public employment without affecting your retirement allowance; disability retirees are not eligible for these waivers.

If you receive an annuity under the Tax-Deferred Annuity (TDA) Program, your monthly TDA annuity payments would not be affected by the amount of your post-retirement income.

- **If you are a disability retiree, or you are a service retiree who does not file a Section 211 or 212 Waiver, the total of the pension portion of your retirement allowance payments and your post-retirement earnings must be less than \$1,800 annually.** (For example, if the pension portion of your annual retirement allowance is \$1,000, your post-retirement income must be less than \$800 annually.) If your earnings equal or exceed this amount, you must repay the excess earnings (see "General Information" on page 3; if you do not

make repayment, the pension portion of your retirement allowance would be suspended for a period of time equal to the length of your public employment since you exceeded the \$1,800 limit.

- **If you are a service retiree who files a Section 211 or 212 Waiver, you may earn up to the annual limit provided under your waiver.** If your earnings exceed your limit, you must repay the excess earnings (see "General Information" on page 3); if you do not make repayment, your retirement allowance would be suspended. If you were working under a Section 211 Waiver, the suspension would continue until the amount of your suspended retirement allowance equals the excess earnings. If you were working under a Section 212 Waiver, the suspension would usually continue for the rest of the calendar year; however, if TRS does not learn in time about earnings that exceed the limit, the suspension would continue into the next calendar year until the missed suspension time has been made up.

UNRESTRICTED POST-RETIREMENT EMPLOYMENT

In the following circumstances, there are no restrictions on the amount of money that you may earn as a retiree:

- If you are a service retiree who reached age 65 during or before the year of your post-retirement earnings; or
- If you work in private employment, in public service outside New York State, or with a nonprofit organization; or
- If you work in certain types of public employment within New York State (*i.e.*, jury duty, an elective public office, a position as a poll or ballot clerk under the election law, a position in the office of the Inspector of Elections, or a position as a notary public or commissioner of deeds); or
- If your TRS membership began before May 31, 1973, and after retirement you are hired as a consultant in public service with New York State or any of its political subdivisions (*e.g.*, New York City); or
- If you work for a Public Benefit Corporation, such as MTA New York City Transit, the New York City Housing Authority, Off-Track Betting Corporation, or MTA Bridges and Tunnels (Triborough Bridge and Tunnel Authority).

If you work in any type of New York State public employment that is not included in the list above, and you are less than 65 years old, your earnings in that position would be subject to limits, as described in the following sections.

RESTRICTED POST-RETIREMENT EMPLOYMENT

Section 212 Waiver

If you are a service retiree under age 65, you may return to public employment with New York State or any of its political subdivisions and earn up to a designated limit each calendar year without jeopardizing your retirement allowance. (*Note: This amount is \$30,000 in calendar year 2009.*)

You must file a "Certification of Employment Under Section 212" (code IA8) with TRS in order to apply

the provisions of Section 212 of the Retirement and Social Security Law (RSSL) to your employment. This form must be renewed each calendar year that you continue in public employment in New York State until the year in which you reach age 65.

Failure to do so may result in the suspension of the pension portion of your retirement allowance.

If you earn more than the Section 212 maximum during a calendar year while working under a Section 212 Waiver, your retirement allowance would be suspended, usually for the rest of the calendar year. TRS generally sends retirees reminder letters approximately four weeks before they are projected to reach their earnings limit. If TRS does not learn in time about earnings that exceed the Section 212 limit, the suspension of your retirement allowance would continue into the next calendar year, but only long enough to make up for the missed suspension time.

Alternatively, you may repay the excess earnings to your employer (not TRS) to avoid suspension of your retirement allowance. (*Note: If you are employed by the New York City Department of Education (DOE), your certified check or money order must be made payable to the "New York City Department of Finance."*)

Section 211 Waiver

If you anticipate that your earnings in public employment with New York State or any of its political subdivisions will exceed the Section 212 limit for the calendar year, you must comply with Section 211 of the RSSL to continue receiving a retirement allowance (subject to certain restrictions).

Under Section 211, your employer must obtain approval for the employment from the appropriate source; for example, the City or State Civil Service Commission, the Chancellor of the New York City DOE, the Trustees of the City University of New York (CUNY), or the Chancellor of the State University of New York (SUNY). The employer determines when the Section 211 Waiver expires and may grant a maximum two-year waiver, which is renewable. **Please note that you may still have restrictions on your earnings under a Section 211 Waiver. You are encouraged to contact TRS to**

request an estimate of your earnings limit prior to filing a Section 211 Waiver with your employer.

You must file a Section 211 Waiver with your employer, not with TRS. If you currently work for the DOE, you may call (718) 935-2900 to obtain a Section 211 Waiver. CUNY employees may contact their college Benefits Officer. Other service retirees may contact the following locations, as applicable:

New York State Education Department
Office of Teaching Initiatives
5N Education Building
Albany, NY 12234
(518) 474-3901 www.nysed.gov

New York State Department of Civil Service
Alfred E. Smith State Office Building
80 South Swan Street
Albany, NY 12239
(877) 697-5627 www.cs.state.ny.us

Once You Have a Section 211 Waiver

After employment is approved, different rules apply depending on whether you return to work for the same public employer or for a different public employer. The same employer would be the public employer that paid your salary in the two years immediately preceding your retirement, and paid the salary on which your retirement allowance is based.

- If you work for the same public employer, earnings in a calendar year cannot exceed the difference between the following: (1) the **greater** of the current salary of the position from which you retired or your Final Average Salary (FAS); and (2) the sum of your maximum retirement allowance (excluding reductions for any payment options) and any cost-of-living increases for that year. *(Note: The difference between (1) and (2) is rounded to the next higher multiple of \$500.)*
- If you work for a different public employer, no limit is placed on your earnings.

If you earn more in a calendar year than the maximum allowed under a Section 211 Waiver, your retirement allowance would be suspended until the amount of your suspended retirement allowance equals your excess earnings.

Alternatively, you may repay the excess earnings to your employer (not TRS) to avoid suspension of your retirement allowance. *(Note: If you are employed by the DOE, your certified check or money order must be made payable to the “New York City Department of Finance.”)*

If you were employed under Multiple Employment Membership (MEM) status during your active service, you should note that this status may affect your post-retirement earnings restrictions. Returning to service with any prior MEM employer would be considered to be working for the “same employer” as before retirement; earnings would be subject to the restrictions explained in the first bullet on this page. (For example, if you worked for both the DOE and CUNY immediately before retiring under MEM status, and if you are re-employed by either employer after retirement, you would be considered to be working for the same employer and subject to the more restrictive earnings limit.) However, both salaries would be included in the formula to calculate the earnings limit under Section 211.

Department of Education Restrictions on Section 211 Waivers

Earnings after retirement are restricted on a calendar-year basis. However, the DOE approves Section 211 Waivers on a school-year or semester basis. This difference complicates earnings limits for retirees who are granted waivers by the DOE. If you have any questions about Section 211 Waivers, please call the DOE at (718) 935-2900.

GENERAL INFORMATION

- Service retirees working in public employment in New York State are required to have a valid waiver form on file if they expect the total of the pension portion of their retirement allowance plus their post-retirement earnings to be more than \$1,800 annually (see page 1). Therefore, if you file a Section 211 Waiver with your employer, you should also file a “Certification of Employment Under Section 212” form with TRS; this will allow you to earn up to the Section 212 limit while awaiting approval of your Section 211 Waiver. As a reminder, all paperwork necessary for a Section 211 Waiver must be obtained from your employer.

- You may voluntarily suspend your retirement allowance if you think you will exceed the Section 211 or Section 212 earnings limit by filing a “Retirement Allowance Suspension/Resumption Form” (code IA22) with TRS.
- If you earn wages during one calendar year, but do not receive those wages until the following year, the wages would count toward your earnings limits for the year in which you earned the wages.
- If you repay excess earnings, your employer would make any required adjustments to your W-2 form for the applicable year.
- TRS determines whether your earnings have exceeded your limit based on records of reported wages supplied by your employer. If you believe that the information is incorrect, you should check your employer’s records. You may also provide your pay stubs to TRS’ Internal Audit Division, so that we can verify your employer’s records. In addition, if any of your earnings during a calendar year included income that you earned before retirement (e.g., vacation pay, sick pay, termination pay, retroactive pay for a salary increase), you must submit a “Report of Income Earned Before Retirement” (code IA20) along with relevant documentation (e.g., pay stubs) to TRS.

Providing this documentation will ensure that these earnings will not count toward your post-retirement earnings.

- If TRS ultimately determines that your earnings have exceeded your Section 211 or 212 limit, your retirement allowance would be suspended. If you do not obtain a Section 211 or 212 Waiver, and you exceed the applicable limit, the pension portion of your retirement allowance would be suspended. In accordance with applicable provisions of the RSSL, you may avoid suspension by making a lump-sum payment in the amount of your excess earnings directly to your employer (not to TRS); to do so, you must submit an “Overpayment of Post-Retirement Earnings Form” (code IA27) to TRS. You must make payment within 30 days of the date of your final notification letter (code IA31) from TRS. (*Note: If you are employed by the DOE, your certified check or money order must be made payable to the “New York City Department of Finance.”*)
- If you work for two or more New York State public employers, your combined earnings from those positions cannot exceed your earnings limit.
- Any pay from your post-retirement summer employment and vacation pay will count toward your post-retirement earnings.

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by accessing our website at
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or by calling 1 (888) 8-NYC-TRS
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TRS Service Line’s main menu.**

This publication should not be solely relied upon, as it is based on currently available information that is subject to change. TRS suggests that you consult with an attorney and/or a tax advisor if you have any specific legal or tax questions concerning this information. In all cases, the specific provisions of the governing laws, rules, and regulations prevail.



TEACHERS' RETIREMENT SYSTEM
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