

Maximum Compensation Limit under IRC 401(a)(17) for 2021 and Prior Retirements, As Applicable



NYC EMPLOYEES'
RETIREMENT SYSTEM

All Tiers

October 2021

The Omnibus Budget and Reconciliation Act of 1993 (OBRA '93) reduced the Maximum Compensation Limit under IRC 401(a)(17) for employees of the private sector. After a transition period the compensation limit was extended to include eligible participants of governmental state and local plans.

OBRA '93 reduced the Maximum Compensation Limit under IRC 401(a)(17) from \$235,840 to \$150,000 for employees of private sector Qualified Plans effective for plan years beginning in 1994. The Maximum Compensation Limit under IRC 401(a)(17) for plan years beginning in 1993 was \$235,840. The \$150,000 Maximum Compensation Limit under IRC 401(a)(17) is adjusted annually for cost-of-living increases in accordance with IRS guidelines.

While OBRA '93 reduced the Maximum Compensation Limit for the private sector for plan years beginning after December 31, 1993, it provided a "Transitional Rule" for "eligible participants" of governmental state and local plans.

An eligible participant for this purpose is defined as any individual who first became a participant in the plan prior to the first plan year beginning after December 31, 1995.

Therefore, the NYCERS members who joined the retirement system prior to July 1, 1996 (first plan year beginning after 12/31/1995) are exempt from the OBRA '93 Maximum Compensation Limit reductions and are "grandfathered" in the Maximum Compensation Limit rules that were in effect as of July 1, 1993 as escalated to the date of benefit determination.

However, members who first joined the plan on or after July 1, 1996 are not eligible for the "grandfathered" Pre-OBRA '93 Maximum Compensation Limit and are subject to the private sector reduced Maximum Compensation Limit under OBRA '93 as escalated to the date of benefit determination.

Please note that the Maximum Compensation Limits under IRC 401(a)(17) are adjusted annually by the IRS effective as of January 1.

IRS Regulation 1.401(a)(17) – 1(b)(3)(ii) provides that for plans that determine compensation used in determining benefit accruals on the basis of compensation for a 12-consecutive-month period or periods, the annual Maximum Compensation Limit to be applied to the compensation for each of those periods is the Maximum Compensation Limit in effect for the respective calendar year in which each 12-month period begins.

Therefore, any Maximum Compensation Limit under IRC 401(a)(17) as adjusted for cost-of-living is to be applied to the compensation in each 12-month period in the member's Final Average Salary period and is based on the respective IRC 401(a)(17) Maximum Compensation Limit in effect at the beginning of each respective 12-month period.

For example, the annual Maximum Compensation Limit for 2021 which became effective as of January 1, 2021 is to be applied to the compensation for any 12-month period beginning in 2021.

The Maximum Compensation Limits for 2021 are \$290,000 for non-grandfathered members of the NYCERS and \$430,000 for grandfathered members of the NYCERS.

The Maximum Compensation Limits under IRC 401(a)(17) as adjusted for cost-of-living are also to be applied to any required member contribution during a calendar year so that the member is not charged contributions for any compensation in excess of the respective calendar year Maximum Compensation Limit.



The effective grandfathered (Pre-OBRA '93) and OBRA '93 Compensation Limits since 1996 are presented below:

Calendar Year	Maximum Compensation Limits	
	Grandfathered	OBRA '93
1996	\$250,000	\$150,000
1997	260,000	160,000
1998	265,000	160,000
1999	270,000	160,000
2000	275,000	170,000
2001	285,000	170,000
2002	295,000	200,000
2003	300,000	200,000
2004	305,000	205,000
2005	315,000	210,000
2006	325,000	220,000
2007	335,000	225,000
2008	345,000	230,000
2009	360,000	245,000
2010	360,000	245,000
2011	360,000	245,000
2012	375,000	250,000
2013	380,000	255,000
2014	385,000	260,000
2015	395,000	265,000
2016	395,000	265,000
2017	400,000	270,000
2018	405,000	275,000
2019	415,000	280,000
2020	425,000	285,000
2021	430,000	290,000

Note: Wages in excess of the annual salary paid to the Governor of the State of New York are excluded from wages used in the calculation of the Final Average Salary for Tier 6 Basic (63/10) and Tier 6 Special Plan members. The Governor's salary for calendar year 2021 is \$250,000.

