

Earnings Limitations for Service Retirees



NYC EMPLOYEES'
RETIREMENT SYSTEM

All Tiers

April 2019

Service retirees who are returning to public service within New York City or New York State may be subject to earnings limitations. In general, Sections 211 and 212 of the New York State Retirement and Social Security Law (RSSL) govern re-employment by service retirees and earnings limitations based on various factors such as the source of income (public, private, or public benefit corporation), a retiree's age, and the issuance of a waiver (RSSL §211 only).

New York State Retirement and Social Security Law §211

This section covers service retirees hired for "hard-to-fill" positions. To be covered under RSSL §211, your prospective employer must obtain a waiver from an authorized agency; for most City agencies, the Department of Citywide Administrative Services issues "211 waivers." The amount you may earn while employed by your former employer* without loss, suspension or diminution of your retirement allowance is the difference between:

1. the maximum pension portion of your retirement allowance (plus cost-of-living adjustments); and
2. the salary on which your retirement allowance was based or the maximum salary you currently would be receiving in the position from which you last retired if you had not retired, whichever is greater.

***There are no earnings limitations under Section 211 for retirees who are hired by a different employer.**

New York State Retirement and Social Security Law §212

Under RSSL §212, if you are under age 65 and return to public service or are elected or appointed to any public office within New York City or New York State, you are subject to earnings limitations. The amount you may earn without loss, suspension or diminution of your retirement allowance is \$30,000 (subject to change by an act of the NYS Legislature). If your earnings exceed \$30,000 in a calendar year, your pension will be suspended for the remainder of that calendar year.

There are no earnings limitations if you are at least age 65 or if you work for:

- The private sector
- The Federal government
- A public agency in another state or municipality outside of New York State
- A public agency in New York City or New York State, but only if you retired from the NYC Transit Authority

There are no earnings limitations if you return to work at a public benefit corporation (such as the NYC Health & Hospitals Corporation, the NYC Transit Authority, the NYC Off-Track Betting Corporation, etc.). However, each agency has its own policy about re-employing service retirees so you should contact the agency directly for more information.

You must file a form (Form #353) with NYCERS electing to have the provisions of RSSL §212 apply. If you do not file such form, you are subject to an earnings limitation of no more than \$1,800 per year, including any pension earned. You only need to file Form #353 once to be covered by the provisions of RSSL §212. If you are returning to public service within New York City or New York State and you are over age 65, you must file Form #353 even though you are not subject to earnings limitations.

Pursuant to Civil Service Law §150, if an elected official retires and accepts appointment, is re-elected, or takes a new oath of office to the same elective public office from which he/she retired, he/she is subject to the earnings limitations in RSSL §212 (if he/she files Form #353) even if he/she is over age 65.

Membership in a New York City or New York State Public Retirement System

If you return to City service in a NYCERS-eligible position, you have 90 days from the date of appointment to rejoin NYCERS if you wish to become a member again. If you do not, you will not be eligible to rejoin for the entire period of your post-retirement employment. In addition, you get no credit for any service rendered after returning.

If you are covered by RSSL §§211 or 212 and wish to join a public retirement system, you must first withdraw from coverage. If you join another system, the pension portion of your retirement allowance is suspended for the entire period of your membership.



Earnings Limitations for Disability Retirees

Various laws and NYCERS' Rules govern post-retirement earnings limitations for disability retirees. This brochure details such limitations. Please refer to the section of this brochure applicable to your tier.

TIERS 1 AND 2

LIMITS BEFORE ATTAINING SERVICE RETIREMENT AGE

Section 13-171 of the NYC Administrative Code provides that a disability retiree may receive income from employment in the **private** sector or the **public** sector if he or she has not yet met the age requirement (service requirement for retirees of a special plan which permits retirement without regard to age) under his or her retirement plan. The amount a pensioner may earn is the difference between the maximum current salary of the next higher title from that which he or she retired, and the **maximum** pension portion of his or her retirement allowance.*

LIMITS AFTER ATTAINING SERVICE RETIREMENT AGE

Once a disability retiree attains the minimum age requirement (service requirement for retirees of a special plan which permits retirement without regard to age) for his or her retirement plan, **Section 1117 of the NYC Charter** governs post-retirement public employment. Section 1117 provides that a retiree's pension must be suspended if his or her total pension **and** earned income from **the City, State or a municipality within New York State** exceeds \$1,800 in any year.** NYC Transit retirees are not subject to this limitation. **Income from Public Benefit Corporations or the private sector is exempt from the \$1,800 limitation in the NYC Charter.**

TIERS 3, 4 AND 6

Tier 3, 4 and 6 disability retirees are generally subject to post-retirement earnings limitations. The extent to which these limitations apply depends on the specific law under which you retired. The following table shows the limitations under each law. If you do not know the disability law you retired under, refer to your Retirement Resolution or data sheet which was given to you at retirement.

NYS Retirement & Social Security Law (RSSL) Section(s)	EARNINGS LIMITATIONS
Dual Purpose Disability Statutes for Tier 4 and Tier 6 Members, and Tier 3 Uniformed Corrections (605 & 507-a) Public & ***Private employment <u>anywhere</u>	\$31,100 for 2018 (will change annually based on the Consumer Price Index) Exceeding this earnings limitation will result in the suspension of your pension for 12 months
Accidental Disability for Tier 4 and Tier 6 Uniformed Sanitation (605-b)	Tiers 1 & 2 safeguards apply (See Tiers 1 & 2 section)
Line-of-Duty Disability for Tier 3 Uniformed Corrections (507-c) Line-of-Duty Disability for Tier 4 and Tier 6 Emergency Medical Technicians (607-b) Accidental Disability for Tier 4 and Tier 6 Deputy Sheriffs (605-c) Tier 3 General Members and 22-Year Plan [506 (Ordinary), 507 (Accidental)] Public employment <u>within NYS only</u>	\$1,800 (including any pension earned) per Section 1117 of the NYC Charter
Line-of-Duty Disability for Tier 3 Uniformed Corrections (507-c) Line-of-Duty Disability for Tier 4 and Tier 6 Emergency Medical Technicians (607-b) Accidental Disability for Tier 4 and Tier 6 Deputy Sheriffs (605-c) Tier 3 General Members and 22-Year Plan [506 (Ordinary), 507 (Accidental)] ***Private employment <u>anywhere</u> & Public employment <u>outside of NYS</u>	NO LIMITATION
TRANSIT RETIREES ONLY (Retired under RSSL §§ 506, 507, 605) Public & ***Private employment <u>anywhere</u>	NO LIMITATION

*Exceeding earnings limitations under Section 13-171 will result in the suspension of your pension for the remainder of that calendar year.

**Since the pension and earned income are added together to compare to the \$1,800 limit most pensioners will exceed this limit once they start working. The pension will remain suspended for as long as you continue to work.

***Employment with a Public Benefit Corporation in NYS is considered Private Employment.

