

840 CMR 8.00: APPLICABILITY OF \$30,000 SALARY CAP

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8.01: Definitions

As used in 840 CMR 8.00, unless a different meaning is plainly required by the context, the following terms shall have the following meanings:

Capped system, any retirement system other than an uncapped system

Non-section 50 restricted service, any service other than St. 1978, c. 367, § 50 restricted service.

Section 50 restricted service, service by an employee to whom the \$30,000 cap applies in a system that remains a capped system.

\$30,000 cap, The maximum salary upon which a retirement allowance may be based pursuant to St. 1978, c. 367, § 50.

Uncapped system, the state employees' and the state teachers' retirement systems and any other system that:

- (a) (a) accepts the provisions of M.G.L. c. 32, § 22(1)(b $\frac{1}{2}$), or
- (b) accepts an annual pension funding grant pursuant to M.G.L. c. 32, § 22D.

8.02: Applicability of the \$30,000 Cap

(1) St. 1987, c. 697, § 64 makes the \$30,000 cap inapplicable to members of the state employees' and teachers' retirement systems and members of any system that:

- (a) (a) accepts the provisions of M.G.L. c. 32, § 22(1)(b $\frac{1}{2}$), or
- (b) accepts an annual pension funding grant pursuant to M.G.L. c. 32, § 22D

The \$30,000 cap is, in effect, repealed for members of these uncapped systems.

(2) The state employees' and teachers' retirement systems became uncapped as of January 1, 1988. Other systems become uncapped effective upon filing with the Commission a certificate of acceptance pursuant to 840 CMR 8.02(1)(a) or

upon a vote to accept a grant pursuant to 840 CMR 8.02(1)(b), whichever occurs first.

(3) The \$30,000 cap remains applicable to those members of capped systems who became members on or after January 1, 1979. This includes:

(a) (a) Members who were employed prior to January 1, 1979 but became members on or after January 1, 1979. Persons who were employed prior to January 1, 1979 and were not permitted membership by administrative oversight, or through no fault on the part of the member, are not subject to the \$30,000 cap.

(b) Individuals who were members prior to January 1, 1979 but left employment taking a return of accumulated deductions and then returned to employment and become members after January 1, 1979, whether or not previous service was repurchased. Persons who become members prior to January 1, 1979 and thereafter maintained membership, active or inactive, are not subject to the \$30,000 cap.

8.03: Additional Two Percent Contribution

Effective on the date that a system becomes uncapped, for each member of the system to whom the \$30,000 cap had applied an additional two percent of that portion of regular compensation in excess of an annualized rate of \$30,000 shall be withheld each payday. For such members paid weekly, for example, two percent shall be withheld from all regular compensation in excess of \$576.92 per week.

8.04: Other Contributions

(1) In the case of systems (other than the state employees' and teachers' systems) that become uncapped on or before July 1, 1988, for each member of the system to whom the \$30,000 cap had applied an amount shall be withheld from that portion of regular compensation in excess of an annualized rate of \$30,000, in such installments as the retirement board shall direct, equal to the additional amount that would have been withheld pursuant to 840 CMR 8.03 between January 1, 1988 and the date the system becomes uncapped.

(2) In the case of systems that become uncapped after July 1, 1988 contributions pursuant to 840 CMR 8.04(1) shall not be required.

8.05: Effect of Cap on Retirement Allowance

(1) If upon retirement a member to whom the \$30,000 cap applied has service in a capped system, and no service in an uncapped system, the maximum salary upon which the retirement allowance may be based is \$30,000 whether the member is retired for superannuation or for ordinary or accidental disability.

The amount of regular compensation to be used in calculating the retirement allowance of such members shall not exceed \$30,000.

(2) If upon retirement a member to whom the \$30,000 cap applied has service in both a capped system and an uncapped system, the retirement allowance shall be based upon the number of years of section 50 restricted service and the number of years of non-section 50 restricted service. For this purpose, all service of a member in a system that remains a capped system at the time of retirement shall be included in section 50 restricted service, regardless of the member's actual rate of regular compensation, if the \$30,000 cap was applicable to the member at the time of the service. All service of a member in a system that is uncapped at the time of retirement shall be included in non-section 50 restricted service. The retirement allowance of any such member shall be the sum of the allowance calculated based upon the years of section 50 restricted service and the allowance calculated based upon the years of non-section 50 restricted service.

(3) If the retirement allowance of a member, or eligible beneficiary of a member, is affected by service in a system that remained capped at the time of retirement and the system later becomes uncapped, the retirement allowance shall be recalculated as of the date the system becomes uncapped. Any service in a system that has become uncapped since the time of retirement shall be included in non-section 50 restricted service for purposes of this recalculation. No member or beneficiary shall be required to make any additional contributions as a condition of such recalculation.

REGULATORY AUTHORITY

840 CMR 8.00: M.G.L. c. 7, § 50; c. 32, § 21.