Tax Relief for Pension Contributions: Application of Earnings Limit

Chapter 26

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Introduction

26.1

Section 790A TCA 1997 provides that an aggregate earnings limit is to apply for the purposes of giving income tax relief to an individual on contributions made to certain pension products. This chapter illustrates the operation of the earnings limit where an individual has both earnings from employment and income from self-employment and makes contributions to both an occupational pension scheme/statutory scheme and a personal pension plan. It also illustrates the operation of the earnings limit for doctors with GMS income and income from private practice where they make contributions to both the GMS Superannuation Plan/Additional Voluntary Contributions (AVCs) and to personal pension plans. The topics covered in this chapter are:

- Tax relief for pension contributions
- Contributions to a single pension product
- Contributions to more than one pension product, including transitional arrangements that applied for the tax year 2008
- Application of the earnings limits in the case of doctors with GMS and private practice income, including transitional arrangements that applied for the tax year 2009

Tax relief for pension contributions

26.2

Under section 790A tax relief for pension contributions is subject to two main controls.

The first control is an age-related percentage limit of an individual’s remuneration/net relevant earnings. This provides that the maximum pension

<table>
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<tr>
<th>Age</th>
<th>Limits</th>
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<tr>
<td>Up to 30 years</td>
<td>15% of remuneration/net relevant earnings</td>
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<tr>
<td>30 – 39</td>
<td>20%</td>
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<td>40 – 49</td>
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<td>50 – 54</td>
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<td>55 – 59</td>
<td>35%</td>
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<td>60 and over</td>
<td>40%</td>
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1 Occupational & Statutory Pension Schemes, Retirement Annuity Contracts, PRSAs and Qualifying Overseas Pension Plans
2 The reference to “personal pension plan” in this chapter can apply to a Retirement Annuity Contract (RAC) and/or a Personal Retirement Savings Account (PRSA).
3 Now called Primary Care Re-imbursement Service (For ease of reference GMS is used in this chapter. For further information please refer to Appendix V.)
4 Age Limits
contribution in respect of which an individual may claim tax relief may not exceed
the relevant age-related percentage of the individual’s remuneration/net relevant
earnings in any year.

The second control places an overall upper limit on the amount of remuneration/net
relevant earnings that may be taken into account for the purposes of giving tax
relief. The earnings limit is set at €115,000 for 2011 (€150,000 for 2009 and 2010)\(^5\).
This limit applies whether an individual is contributing to a single pension product or
to more than one pension product.

In addition, section 790A TCA 1997 provides that, for the purposes of giving tax relief
to an individual on contributions made to a retirement benefits scheme and to a
personal pension plan etc. the aggregate of the individual’s remuneration, within the
meaning of Chapter 1, and net relevant earnings within the meaning of Chapter 2
(RACs) and Chapter 2A (PRSAs) of Part 30 of the TCA shall not exceed the earnings
limit. In essence, therefore, where an individual has both remuneration from
employment and net relevant earnings in respect of self-employment, the aggregate
of the remuneration and net relevant earnings that can be “pensioned” for tax relief
purposes cannot exceed the earnings limit.

In effect, section 790A requires pensionable remuneration to be considered first in
determining the overall amount of tax relievable contributions that can be made in
any year as between occupational pensions (including AVCs) and personal pension
plans.

If the pensionable remuneration from an office or employment in a year equals or
exceeds the limit, there is no scope to get tax relief on contributions to a personal
pension plan for that year.

**Contributions to a single pension product**

26.3

In a situation where an individual is contributing to a single pension product, the
maximum tax relievable pension contribution is the relevant age-related percentage
of the lower of:

- the individual’s remuneration/net relevant earnings and
- the earnings limit.

In effect, this means that tax relief on pension contributions is limited:

\(^5\) “Earnings limit” was €254,000 in 2006, €262,382 in 2007 and €275,239 in 2008, €150,000 in 2009
and 2010. The earnings limit is €115,000 for 2011 and 2012 and for 2010 was deemed to be €115,000
for the purposes of determining how much of a pension contribution paid by an individual in 2011
could be treated as paid in 2010, where the individual elected under existing rules to have it so
treated.
where an individual’s remuneration/net relevant earnings exceeds the earnings limit, to the lower of the actual contributions made and the relevant age related percentage of the earnings limit, and

where remuneration/net relevant earnings is less than the earnings limit, to the lower of the actual contributions made and the relevant age related percentage of the individual’s remuneration/net relevant earnings.

For example, an individual aged 50 with earnings of, say, €200,000 in 2012 and making contributions to an occupational pension scheme may claim tax relief on the lower of the actual contributions paid and 30% of the earnings limit of €115,000 (i.e. €34,500).

So if the individual is making contributions of 25% of salary (i.e. €50,000), tax relief would be limited to contributions of €34,500 (i.e. the lower of €50,000, which is the actual contribution and €34,500, which is 30% of €115,000). If he is making contributions of 17% of salary (i.e. €34,000) he could claim tax relief on the full amount (as this is lower than 30% of €115,000).

Similarly, an individual aged 40 with self-employed income (net relevant earnings) of, say, €100,000 in 2012 and paying premiums to a personal pension plan, may claim tax relief on the lower of:

1. the actual premiums/contributions paid and
2. 25% of €100,000.

So if he is paying premiums/contributions of €30,000, the amount on which tax relief could be claimed would be limited to €25,000. If the premiums/contributions paid were €25,000 or less, relief could be claimed on the full amount.

**Contributions to more than one pension product**

26.4

Where an individual has two sources of income (e.g. earnings from employment and profits from self-employment and is making pension contributions to an occupational pension scheme and to a personal pension plan, a single aggregate earnings limit of €115,000 (€150,000 for 2009 & 2010) applies in determining the amount of tax relievable contributions.

The following examples illustrate the operation of the earnings limit in such situations.

**Example 1**

Mary has earnings from employment of €100,000 in 2012. She also has self-employed income of €100,000. She is aged 28 and is required to make a contribution
of 10% of salary (i.e. €10,000) to an occupational pension scheme established by her employer.

(Given Mary’s age, the maximum allowable tax relievable contribution she can make in respect of her employment earnings is a contribution of 15% of her salary i.e. €15,000).

What is Mary’s scope for making further tax relievable pension contributions?

As Mary is already making pension contributions in respect of her employment earnings of €100,000, she has, in effect, “used up” €100,000 of the aggregate earnings limit of €115,000.

Clearly, she has not fully used her capacity to make tax relievable pension contributions in respect of her employment earnings and she could check with her scheme administrator/pension advisor to see if she has scope to secure extra benefits through AVCs. If such scope exists, she could make tax relievable AVCs of up to an additional 5% of her employment earnings (i.e. up to €5,000).

In relation to her self-employed income, because Mary has “used up” €100,000 of the aggregate earnings limit of €115,000 in contributing to her occupational pension scheme, her capacity to make tax relievable contributions to a personal pension plan in respect of her self-employed earnings is restricted to a maximum of 15% of €15,000 (i.e. €2,250).

This is the position irrespective of whether Mary decides to make an AVC or not.

**Example 2**

Michael, aged 51, has earnings from an employment of €180,000 in 2012. He also has self-employed income of €100,000.

Michael makes pension contributions as follows:

- a contribution of 10% of salary (i.e. €18,000) which he is required to make to an occupational pension scheme established by his employer, and

- 15% of self-employed earnings (i.e. €15,000) to a PRSA.

Based on his age, the maximum amount of pension contributions that Michael is entitled to claim tax relief on in respect of the occupational pension scheme for 2012 is the lower of his actual contributions (i.e. €18,000) and 30% of the earnings limit of €115,000 (i.e. €34,500). As Michael’s contributions are €18,000 he can claim relief on that amount.
However, no tax relief is due in 2012 for Michael’s contributions to the PRSA as he has used up all of his aggregate earnings limit in contributing to his occupational pension scheme.

As in Example 1, Michael may have scope to make AVCs and, if so, could increase the amount of tax relievable contributions in respect of his earnings from employment by up to €16,500 (i.e. maximum tax relievable contribution permissible is €34,500 (€115,000 x 30%) less the €18,000 contribution made to the occupational pension scheme).

**Transitional Arrangements that applied for 2008**

26.5

The following transitional arrangements applied in relation to the operation of the earnings limit for 2008 in a “dual income” situation as outlined in paragraph 26.4.

Where a personal pension plan was entered into before 7 September 2009 and the contribution:

- was actually paid in 2008, or
- was paid before 7 September 2009 in respect of 2008 (i.e. where the taxpayer had elected, before the 2008 return filing date, to have the contribution treated as if it was paid in 2008),

Revenue do not seek to apply the approach outlined in paragraph 26.4 and individuals could claim relief for 2008 on the same basis as in years prior to that year, subject to the relevant age related and earnings limits.

Contributions made on or after 7 September 2009 in respect of 2008 and contributions made during 2009 in respect of 2009 (whether made before or after 7 September) fall to be treated in accordance with paragraph 26.4.

Years prior to 2008 are not affected by paragraph 26.4.

**Contributions to the General Medical Services (GMS) Plan**

26.6

Under section 773 TCA 1997 the superannuation arrangements for doctors under the GMS⁶ Scheme are approved by Revenue, for the purposes of Chapter 1 of Part 30 of that Act, as if the GMS Plan were a retirement benefits scheme for employees. Tax

⁶ See footnote 3 above.
relief for contributions made by doctors to the Plan is given, therefore, under the provisions of Chapter 1.

Section 773(3) effectively deems GMS income to be “remuneration from an office or employment” and specifically excludes that income from being taken into account in the calculation of net relevant earnings for the purposes of any claim to relief in respect of premiums paid towards a personal pension plan.

Since 2001, AVCs may be made up to the relevant age related percentage of a doctor’s net GMS remuneration, subject to the earnings limit, less the sum paid by way of the 5% contribution to the main GMS plan.

Given that section 773 treats a doctor’s GMS income as “remuneration from an office or employment”, the operation of the aggregate earnings limit outlined in paragraph 26.2 also applies to doctors with GMS and private practice income in the same way i.e. the GMS income and GMS Superannuation plan contributions must be considered first in determining the overall amount of tax relievable contributions that can be made by a doctor in any year as between occupational pensions (including AVCs) and personal pension plans. Therefore, pensionable GMS income (i.e. net GMS remuneration) makes up the first part of the aggregate earnings limit of €115,000 and net relevant earnings in respect of private practice income will, effectively, be zero where the GMS pensionable income is €115,000 (€150,000 for 2009 and 2010) or more.

The following examples illustrate the operation of the aggregate earnings limit in such circumstances.

Example 1

John is a GP aged 56. He is in receipt of net GMS remuneration in 2012 of €75,000 of which capitation income is €60,000 and he has net relevant earnings of €100,000 in respect of his private practice income.

As a member of the GMS Superannuation Plan, John is contractually required to make a contribution of 5% of the capitation element of his GMS remuneration to the plan. In addition, during 2012 John has paid regular monthly AVCs of €375 per month in respect of his GMS remuneration and has paid premiums of €400 per month to a personal pension plan in respect of his private practice earnings.

7 “Net GMS remuneration” is defined as income derived from the GMS Scheme contract less any expenses set against that income for the purposes of assessing the doctor’s liability to tax. It was introduced in 2001 in the context of the extension of AVCs to the GMS Plan. It is determined by deducting net relevant earnings in respect of private practice income (calculated in accordance with Tax Briefing 28 of October 1997) from the doctor’s overall net income (i.e. gross income less expenses and capital allowances).
Overall, the potential maximum contributions in respect of which John can claim tax relief in 2012 is €40,250 i.e. the earnings limit of €115,000 multiplied by the relevant age related percentage limit of 35%.

John’s pensionable remuneration must be considered first. In relation to his net GMS remuneration, John has already made contributions of €3,000 as a result of his 5% contribution to the GMS Plan and a further €4,500 in AVCs, giving total contributions of €7,500. Under pension tax rules, John may make tax relievable contributions of up to €26,250 in respect of his net GMS remuneration as between the main GMS Plan and AVCs. Subject to overall benefit restrictions, John may have scope, therefore, to make a special “last minute” AVC of up to €18,750 under the provisions of section 774(8) TCA, before the 2012 return filing date and elect to claim the relief on the contribution in 2012 so as to maximise his relief.

Having pensioned €75,000 of his net GMS remuneration, John has “used up” that amount of the €115,000 earnings limit, thus restricting his capacity to make tax relievable contributions in respect of a personal pension plan to 35% of €40,000 i.e. €14,000. He has already made regular RAC premiums totalling €4,800 in 2012. On that basis he has capacity, under section 787(7) TCA, to make a further tax relievable contribution of €9,200 towards a personal pension plan before the return filing date and elect to claim the relief in respect of the contribution in 2012.

Overall, as between his GMS Plan/AVC contributions of €26,250 and his personal pension plan contributions of €14,000 John will have claimed his full entitlement to tax relief.

Example 2

Jean is a GP aged 43. She is in receipt of net GMS remuneration in 2011 of €160,000 of which capitation income is €130,000 and she has net relevant earnings of €100,000 in respect of her private practice income.

As a member of the GMS Superannuation Plan, Jean made a contribution of €6,500 (5% of the capitation income) to the plan in 2011. In addition, during 2011 Jean has paid regular monthly contributions of €500 to a PRSA in respect of her private practice income. Before completing her 2011 tax return, Jean wants to establish what her position is as regards claiming relief on the contributions already made and on maximising her relief in 2011.

Overall the potential maximum contributions in respect of which Jean can claim tax relief in 2011 is €28,750 i.e. the earnings limit of €115,000 multiplied by the relevant age related percentage limit of 25%.

As in Example 1, Jean’s pensionable GMS income must be considered first. In this case, as her net GMS remuneration exceeds the earnings limit of €115,000, she has no scope to claim relief for her PRSA contributions in 2011.
Jean has already made a contribution of €6,500 to the GMS Plan. Assuming she has capacity to do so (having regard to overall benefit restrictions), Jean has scope to make a special “last minute” AVC of up to €22,250 under the provisions of section 774(8) TCA, before the 2011 return filing date and elect to claim the relief on the contribution in 2011 so as to maximise her relief.

Jean’s PRSA contributions cannot be relieved in 2011 and must be carried forward for relief in future years. This is the position irrespective of whether Jean decides to make an AVC or not.

**GMS Plan – transitional arrangements that applied for the tax year 2009**

26.7

The following transitional arrangements applied in relation to the operation of the earnings limit for 2009 in respect of doctors with GMS and private practice income.

Where a personal pension plan was entered into before 7 September 2010 and the contribution:

- was actually paid in 2009, or
- was paid before 7 September 2010 in respect of 2009 (i.e. where the taxpayer elected, before the 2009 return filing date, to have the contribution treated as if it was paid in 2009)

Revenue did not seek to apply the approach outlined in paragraph 26.6 and doctors could claim relief for 2009 on the same basis as in years prior to that year, subject to the relevant age related and earnings limits not being breached.

Contributions made on or after 7 September 2010 in respect of 2009 and contributions made during 2010 in respect of 2010 (whether made before or after 7 September) fell to be treated in accordance with **paragraph 26.6**.

Years prior to 2009 are not affected by **paragraph 26.6**.