

RULE B6

Repayment of aggregate pension contributions

Rule B6 sets out the terms of eligibility for a repayment of pension contributions.

Eligibility for refund

Rule B6(1) gives the circumstances in which you could be entitled to a refund of pension contributions.

The most common situations where eligibility for a refund of contributions will be decided are where a firefighter –

- leaves the fire and rescue service without being entitled to any other form of retirement benefit, or
- remains in the fire and rescue service but opts out of the FPS by electing under Rule G3 not to pay pension contributions.

In these circumstances, to be eligible for a refund you must –

- be a regular firefighter, and
- opt out of the FPS, or retire but not for the purpose of taking up employment as a regular firefighter with another fire and rescue authority,
- have less than 2 years' service,
- not be entitled to an ordinary, short service, ill-health or deferred pension, or an injury award, or a Guaranteed Minimum Pension (Guaranteed Minimum Pensions are explained in Rule J1), and
- satisfy HMRC requirements (see "Tax" below").

In most cases, therefore, you would only be entitled to a refund of contributions if you opt out of the FPS, or leave the fire and rescue service, with less than 2 years' pensionable and qualifying service.

Calculation of aggregate pension contributions

"Aggregate pension contributions" are defined in Rule A8. Basically they are all the contributions you have paid into the FPS and not had refunded to you. If you transferred earlier pension rights into the FPS you may also be entitled to a refund of the contributions paid in your earlier pension scheme.

Adjustments

Your contributions are repaid to you, subject to two deductions – tax (explained in "Tax" below") and the "Certified Amount" of a "Cash Equivalent Premium" ("CEP"). The FPS is a "contracted-out" pension scheme, i.e. it offers its members benefits as good as those otherwise provided by the State Second Pension ("S2P") and, consequently, members pay a lower rate of National Insurance contribution. If you leave the FPS with a refund of contributions the Scheme will not provide you with benefits and so you have to be given S2P cover for the period you were contracted-out. This is done by your fire and rescue authority paying a Cash Equivalent Premium (CEP) to the State scheme. Your share of the payment – the Certified Amount – is deducted from the refund. S2P and the State pension scheme are explained in Annexe 8.

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| Rule B6 (continued) |
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Tax

Before 6 April 2006, tax was deducted from refunds under the Income and Corporation Taxes Act 1988. Immediately before that date the amount of tax deductible was 20% (after the deduction of the Certified Amount of the Contributions Equivalent Premium).

On and from 6 April 2006, the terms under which pensions can be paid, and tax charged, are as set out in the Finance Act 2004. Payments made to pension scheme members should comply with these terms to be "authorised payments". The fire and rescue authority must ensure that any payments made to Scheme members are authorised.

A refund is described as a "short service refund lump sum" in the Act. Payment extinguishes entitlement to all other benefits under the Scheme.

Consequently the fire and rescue authority will have to ensure that not only do you satisfy the FPS rules for payment of a refund but also that the payment will not affect any other benefit entitlement you have, and that it will be authorised. Because of this, before a refund is paid, your fire and rescue authority may tell you that you cannot have a refund unless you confirm that you –

- have less than 2 years' pensionable service
- have not had a transfer of personal pension rights into the FPS
- have not reached normal pension age
- are not continuing to accrue pension rights in the FPS in another employment
- have not received a payment from the FPS since 6 April 2006 in the form of benefits
- do not have deferred benefits held in the FPS
- have not had a transfer of previous FPS rights to an overseas pension scheme.

The payment must be made before your 75th birthday.

As under earlier tax arrangements, it is the fire and rescue authority that, as administrator, is liable to a charge to tax on this type of payment. Rule B11 enables the authority to deduct this tax from the payment. The tax charge is currently –

- 20% on the first £10,800 refunded
- 40% in respect of the excess over £10,800.

These rates and limits can be changed by HM Treasury. Because a refund would not be paid if a firefighter has 2 or more years' service, it is unlikely the 40% rate would apply. It should be noted that this is not income tax and so cannot be claimed back by the firefighter should his/her earnings fall below the relevant income tax threshold.

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| Rule B6 (continued) |
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Tax (continued) The payment of a short service refund lump sum does not trigger a lifetime allowance test. Consequently it does not have to be taken into account for any future test, nor does any lifetime allowance have to be available in order for such a payment to be made.

Payment Rule L3(9) requires payment to be made the earliest of –

- 12 months from the date of retirement, or
- on your request for payment.

In some cases, for example where information is needed from NISPI to work out your portion of the CEP, the fire and rescue authority may not make the payment until they have all the details necessary to ensure its accuracy.

Payment will be made in accordance with Rules L3 and L5.

Firefighters' Pension Fund If aggregate pension contributions are repaid to a firefighter, the fire and rescue authority must transfer an amount equal to the aggregate contributions that they have paid as an employer's contribution, from their Firefighters' Pension Fund to any other fund that they maintain.

Example Examples of the calculation of a return of contributions are given on pages B6-Example 1.

Useful reference source

- FSC 15/1978: effect of contracting-out
- FSC 3/1988: effect of Social Security Act 1986 – service bar on refund reduced from 5 to 2 years
- FSC 4/1988: increase in tax deduction from 10% to 20%
- FPSC 9/2006: clarification that a refund applies if the firefighter has less than 2 years' service; effect of refund on employer's contributions

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| Points To Note |
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1. If you are entitled to any award under the FPS, Rule E4 says that the total value should not be less than you paid into the FPS by way of contributions. Usually, however, the benefits paid out are far in excess of the contributions paid in. If they were not for any reason, a refund (less the value of any benefits paid) would be made. The most likely scenario for this situation is where a firefighter dies before becoming entitled to payment of benefits for him or herself and does not leave any dependants eligible for an award. The refund of contributions would be paid to the firefighter's estate.

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Rule B6 (continued)

Points To Note continued

2. In certain circumstances you could return your refund of contributions to the fire and rescue authority—
 - to count the service again on rejoining the fire and rescue service – see the explanation in Rule F4
 - to allow a transfer value to be paid – see the explanation in Rule F9but note that time limits apply.

Repayment of aggregate pension contributions

Example of repayment of aggregate pension contributions

Example A

A firefighter with 16 months' service resigns at age 27. He has paid total basic pension contributions of £2,618.00 at his date of leaving. He requests repayment of the contributions two months after leaving. A Contributions Equivalent Premium of £1,126.40 is payable of which £412.40 is the Certified Amount.

Because the firefighter is not eligible by age or service for any other award under Rules B1 to B5 or J1 of the FPS and has not requested a transfer value to be paid to any other pension arrangement, he is entitled to a repayment of aggregate pension contributions.

He requests the repayment within 2 months of leaving and so under Rule L3(9)(b) he is entitled to it before the 12 month period otherwise set by Rule L3(9)(a).

Two deductions have to be made from the repayment – the first is the Certified Amount of a Contributions Equivalent Premium. The FPS is contracted-out of the State Second Pension (S2P) element of the State pension scheme. While they are members of the FPS, firefighters are not contributing to S2P – they pay the lower, contracted-out level of National Insurance contributions. If they leave the FPS without entitlement to benefits (a repayment of contributions wipes out pension entitlement) they must have S2P pension rights restored in respect of the contracted-out period. This is achieved by payment of a Contributions Equivalent Premium (CEP) to National Insurance Services to Pensions Industry (part of Her Majesty's Revenue and Customs and formerly known as the Contracted-out Employments Group). The firefighter is required to pay the Certified Amount (CA) of the CEP, the fire and rescue authority pays the balance. The payment is made by the firefighter by a having a deduction made from the refund. The CEP and CA are calculated by reference to the higher non contracted-out rate of National Insurance contributions which would have been paid by the firefighter and the fire and rescue authority, had the FPS not been a contracted-out pension scheme. (See Annexe 8 for more information about the State pension scheme.)

The second deduction is a tax charge in accordance with the Finance Act 2004 – see Rule B11. The current rate is 20% on the first £10,800 refunded.

The firefighter's repayment of aggregate pension contributions will be:

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| | total aggregate contributions | £2,618.00 |
| <i>less</i> | CA of CEP | <u>£ 412.40</u> |
| | | £2,205.60 |
| <i>less</i> | tax @ 20% | <u>£ 441.12</u> |
| | Repayment = | <u>£1,764.48</u> |

Another example follows . . .

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Example of repayment of aggregate pension contributions (continued)

Example B

A firefighter with 20 months' service resigns at age 37. He has paid total basic pension contributions of £3,960.00 at his date of leaving. He has also paid £720.00 in additional contributions to "purchase" increased benefits. 12 months after his date of leaving he still has not requested a repayment of the contributions and so the fire and rescue authority prepare the payment under Rule L3(9)(a). A Contributions Equivalent Premium of £1,656.00 is payable of which £576.00 is the Certified Amount.

Because the firefighter is not eligible for any other award under Rules B1 to B5 or J1 of the FPS and has not requested a transfer value to be paid to any other pension arrangement, he is entitled to a repayment of aggregate pension contributions.

As in Example A, two deductions have to be made from the repayment – the Certified Amount of a Contributions Equivalent Premium and then tax at (currently) 20%.

The firefighter's repayment of aggregate pension contributions will be:

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| | total basic contributions | £3,960.00 |
| <i>plus</i> | total additional contributions | £ 720.00 |
| | total aggregate contributions | £4,680.00 |
| <i>less</i> | CA of CEP | £ 576.00 |
| | | £4,104.00 |
| <i>less</i> | tax @ 20% | £ 820.80 |
| | Repayment = | <u>£3,283.20</u> |