

# Payments received on termination of employment

Position as of 1<sup>st</sup> January 2019



## A brief overview

Basically, any remuneration paid for work performed as an employee is subject to compulsory contributions. This also includes remuneration paid by employers, or institutions closely associated with them, when an employment relationship is terminated completely.

The following examples of compensation paid on termination of employment count as part of the employee's relevant salary:

- Retrospective salary payments
- Commission payments
- Holiday pay
- Bonuses
- Compensation for premature termination of contract
- Compensation for contract clauses banning competition
- Discretionary employer's contributions to individual employees' pension plans (i.e. not required by regulations).

By contrast, the following are not subject to compulsory contributions:

- Pension benefits required by regulations  
This refers to pension benefits to which the beneficiary is entitled when an insured event occurs.
- Pension fund contributions  
It refers to employers' social benefits where pension fund regulations state that these are payable.

If even after termination of the employment relationship the employer continues to pay the same level of pension contributions as previously, such contributions will form a full part of the employee's relevant salary.

This leaflet provides information for employers on remuneration following termination of employment.

## Welfare benefits on termination of employment

### 1 **When are welfare benefits partially or fully exempt from contributions?**

Welfare benefits are partially or fully exempt from contributions under certain conditions where an individual has insufficient occupational pension provision or has been made redundant on operational grounds. They may take the form of pensions (e.g. bridging pensions) or cash settlements (e.g. severance payments) on termination of an employment relationship. Pensions are converted to a lump sum by the compensation offices.

# Welfare benefits for individuals with insufficient occupational pension provision

## 2 What benefits are excluded from the relevant salary?

For each whole calendar year in which an employee had no occupational pension provision, benefits equivalent to up to half the amount of the minimum monthly old-age pension applicable at the time of payment which are paid on termination of an employment relationship spanning several years will not count towards the employee's relevant salary.

## 3 What benefits form part of the relevant salary?

Any amount exceeding half the minimum monthly old-age pension will count as part of the relevant salary. The amount of salary drawn is of no relevance.

## 4 Example

A 54-year-old part-time shop assistant is made redundant after 15 years in her job. She receives a one-off cash settlement of 10 000 francs paid out on a voluntary basis. She was only partially subject to the Federal Law on Occupational Benefits (LOB) and has gaps in her contribution record. Between 1<sup>st</sup> August 2006 and 31<sup>st</sup> December 2010 and between 1<sup>st</sup> April 2015 and 31<sup>st</sup> July 2019 she did not have any LOB cover. This leaves her with a gap of seven full calendar years (4 + 3). Art. 8<sup>bis</sup> of the OASI ordinance applies.

Cash settlement	CHF 10 000.00
7 x CHF 592.50 (half the minimum monthly pension)	- CHF 4 147.50
Relevant salary	CHF 5 852.50

## Welfare benefits for staff made redundant on operational grounds

### 5 What constitutes operational grounds?

The closure, merger or restructuring of a business constitute operational grounds.

A business is deemed to be undergoing restructuring if the conditions set out in Art. 53b para. 1 lit. a or b of the LOB for a partial liquidation of the pension fund providing mandatory occupational pension provision are fulfilled, or if there are collective redundancies covered by a redundancy plan.

The preconditions for partial liquidation are governed by regulations approved by the supervisory authority for occupational pensions. The partial liquidation of an extra-mandatory pension foundation alone does not meet the exemption requirements.

If the pension fund does not undergo partial liquidation despite the fact that staff have been made redundant, the case will still be regarded as one of operational restructuring if there are collective redundancies governed by a redundancy plan.

A redundancy plan is an agreement in which the employer and employees define measures aimed at avoiding and limiting dismissals and their consequences (see Art. 335h para. 1 CO).

Redundancies are regarded as “collective” if they affect a sizeable proportion of the workforce. Benefits paid to specific employees on an individual basis form part of their relevant salary.

### 6 What about voluntary redundancies and employees who choose to take early retirement?

Voluntary redundancies and early retirement taken at the employee’s own choice are not covered by the exemption rules even if they are based on a redundancy plan or an early retirement scheme.

## **7 What benefits are excluded from the relevant salary?**

Benefits paid to staff made redundant on operational grounds are excluded from their relevant salary up to a sum equivalent to four and a half times the maximum annual old-age pension.

## **8 What proportion of the benefits paid out to staff made redundant on operational grounds form part of their relevant salary?**

Any benefits paid to staff made redundant on operational grounds which exceed four and a half times the maximum annual old-age pension (CHF 127 980) will form part of their relevant salary. The amount of salary drawn is of no relevance.

Benefits paid out as a pension must be converted into capital, i.e. their cash value must be determined. The cash value of a pension corresponds to the capital that had to be invested at the actuarial interest rate at the outset in order to make future payments; the probability of survival is taken into account here. For the conversion, a factor is used that can be determined directly from the tables (see next page). For incomplete years of age, the temporary factor is interpolated; the difference between the factor for the lower and upper age in the table is used.

## 9 Conversion factors

Excerpt of the factors used for converting into capital for the following types of pension: life, temporary up to age 64 or 65, and deferred as of age 64 or 65:

Men - pension			
Age in years	life	temporary up to age 65	deferred as of age 65
58	20,2	6,4	13,8
59	19,7	5,5	14,2
60	19,3	4,7	14,6
61	18,8	3,8	15,0
62	18,3	2,9	15,4
63	17,9	1,9	16,0
64	17,4	1,0	16,4
65	16,9	0,0	16,9

Women - pension			
Age in years	life	temporary up to age 64	deferred as of age 64
58	21,6	5,5	16,1
59	21,1	4,7	16,4
60	20,7	3,8	16,9
61	20,3	2,9	17,4
62	19,8	1,9	17,9
63	19,3	1,0	18,3
64	18,9	0,0	18,9

Calculation formula:  $\text{capital} = \text{annual pension} \times \text{factor}$   
 $\text{annual pension} = \text{capital} / \text{factor}$

The age is rounded up to the last complete month, and the factors are determined by interpolating between the nearest whole-number ("full") ages.

## 10 Example of conversion factor

Life pension for a man aged 62 years and 3 months.

Age 62, life pension	Factor 18,3
Age 63, life pension	Factor 17,9
Age 62 years and 3 months	Factor 18,20
Interpolated temporary factor	$(18,3-17,9) \times (9/12) + 17,9 = 18,20^*$

\* (Factor for lower age - factor for higher full age x (no. of months until next birthday / 12) + factor for higher age)

The complete tables for determining the factors for converting pensions into capital can be downloaded from [www.bsv.admin.ch](http://www.bsv.admin.ch) > *Publikationen & Service* > *Weisungen, Kreisschreiben etc.* > *Vollzug Sozialversicherungen* > *AHV* > *Grundlagen AHV* > *Weisungen Beiträge* > *WML (Anhang 1)* (available in German, French and Italian only). Other examples are also listed there.



## 11 Example of a bridging benefit

The Bierperle brewery decides to outsource its home delivery service and therefore has to implement restructuring measures. The pension fund undergoes partial liquidation. This affects all staff working in the brewery's haulage operations. A dispatcher with over 15 years of service aged 58 and four months – in addition to a pension from the compulsory pension scheme from his employer – receives one-off compensation of CHF 150 000 and an annual bridging benefit of CHF 82 000 (as of age 58 years and 4 months up to age 59) and of CHF 73 000 (from age 60 to 65).

The pension paid under the early retirement arrangements comes under Art. 6, para. 2 lit. h of the OASI Ordinance and the other benefits come under Art. 8<sup>ter</sup> para. 2 lit. a of the OASI Ordinance.

The annual bridging benefits must be converted to a lump-sum benefit:

Capital = bridging benefits x temporary factor up to 65 x number of years divided by total duration.

From age 58 <sup>4/12</sup> to 59 CHF 82 000.–

Interpolated factor temporary until age 65:

$(6,4 - 5,5) \times (8/12) + 5,5 = 6,1$

(82 000 x 6,1 x 20/80) CHF 125 050.–

From age 60 – 65 CHF 73 000.–

(73 000 x 6,1 x 60/80) CHF 333 975.–

Severance pay CHF 150 000.–

Total amount CHF 609 025.–

Minus four-and-a-half times the maximum annual

retirement pension - CHF 127 980.–

Relevant salary CHF 481 045.–

Pensions will be converted to lump-sum payments by the compensation offices.

## Common provisions

### **12 And if the activity has only been reduced?**

If the activity is continued on a part-time basis, the amount paid is subject to contributions in full. Benefits from the employer can only be exempt from the obligation to pay contributions in the event of complete termination of the employment relationship.

### **13 Are the employee's age and years of service relevant?**

No. Age and years of service play no part in the calculations. However, the pensioner's personal allowance will not apply.

### **14 When do the contributions have to be paid?**

Contributions are due on payment of the termination benefit. If the benefit is paid out in the form of a pension, the contributions will be due at the time of the first payment.

## Enquiries and further information



This leaflet merely provides an overview. Individual cases can only be assessed conclusively on the basis of the relevant legislation. The compensation offices and their branches will be pleased to answer any enquiries. A list of all compensation offices can be found at [www.ahv-iv.ch](http://www.ahv-iv.ch).

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