

**VENTURA COUNTY EMPLOYEES' RETIREMENT  
ASSOCIATION**

**REGULATIONS FOR  
IRC CODE § 401(a)(17)  
COMPENSATION LIMIT**

# VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

## REGULATIONS FOR IRC SECTION 401(a)(17) COMPENSATION LIMIT

### SECTION I. PURPOSE AND SCOPE

In accordance with section 31525 and section 31671 of the California Government Code, the regulations set forth herein are effective as of November 16, 2015, and reaffirm and clarify the existing practices of the Ventura County Employees' Retirement Association (the "Association") with respect to the limit on annual compensation under section 401(a)(17) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under section 401(a)(17).

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish reasonable procedures for complying with the limit on annual compensation under section 401(a)(17) of the Code that it deems necessary or desirable to comply with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

### SECTION II. LIMITATION ON ANNUAL COMPENSATION EARNABLE

#### A. In General

##### 1. Annual Compensation Earnable Limit

The annual amount of compensation that is taken into account in determining all benefits provided by the Association to affected Members for any year, which is referred to in the CERL and in these Regulations as "Compensation Earnable", shall in no event be greater than the amount allowed by Code section 401(a)(17) adjusted in accordance with the Code for increases in the cost of living. This limit has been increased by cost of living adjustments to \$265,000 for 2015. This limit is called the Annual Compensation Earnable Limit in these regulations. (Certain Members may also be subject to the limitation on Compensation Earnable under Government Code Section 7522.10(c) and (d) which would produce a lower limit than the limit under section 401(a)(17) of the Code.)

##### 2. Members Affected By the Annual Limit

###### a. Not Applicable to Pre-July 1, 1996 for Association Members

The Annual Compensation Earnable Limit does not apply to any individual who first became a Member of the Association prior to July 1, 1996.

###### b. Applies to New Members of the Association On and After July 1, 1996

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In accordance with Government Code section 31671, the Annual Compensation Earnable Limit shall apply to all individuals who first become Members of the Association on or after July 1, 1996.

### c. Date First Becomes a Member

An individual first becomes a Member on the date that a Member first became a Member in the Association, regardless of whether the Member terminated and resumed participation in the Association at a later date.

## B. Operational Rules, In General

This section applies to Members who are not grandfathered under section A,2,a.

### 1. Limited Compensation Earnable

All Compensation Earnable that would be taken into account for determining benefits provided by the Association without regard to these regulations is subject to the Annual Compensation Earnable Limit. Such Compensation Earnable is not limited to salary or to base salary.

### 2. Benefits Affected by the Limit

The Annual Compensation Earnable Limit applies to the determination of all benefits provided by the Association including pensions, annuities, retirement allowances, death benefits, disability benefits, refunds and withdrawals that are determined by member contributions (including such contributions that are or may have been in the past "picked up" by the employer) and earnings thereon.

### 3. Compensation Earnable from More Than One Employer

If Compensation Earnable from more than one employer that participates in the Association is taken into account in determining a Member's benefits, the Annual Compensation Earnable Limit shall apply separately to the Compensation Earnable from each employer. For example, if the Compensation Earnable Limit is \$265,000 for the year and the Member has Compensation Earnable of \$200,000 from one participating employer and \$100,000 from another participating employer, the unreduced total Compensation Earnable from each employer may be taken into account. The Annual Compensation Earnable Limit does not apply to the aggregate of Compensation Earnable earned from all employers that participate in the Association.

### 4. Proration for Short Plan Year

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If a plan year consists of fewer than 12 months, the Annual Compensation Earnable Limit is an amount equal to the otherwise applicable Annual Compensation Earnable Limit multiplied by a fraction, the numerator of which is the number of months in the short plan year, and the denominator of which is 12. No proration is required for participation of less than a full plan year.

### 5. Reciprocity and New Membership in the Association

An individual who becomes a Member of the Association on or after July 1, 1996, and who has reciprocity with another public sector retirement plan nevertheless is a new Member of the Association. Membership before July 1, 1996 in another retirement plan with which the Association has reciprocity does not create pre-July 1, 1996 Association membership for purposes of the Annual Compensation Earnable Limit.

### 6. Reciprocity and Prior Membership In the Association

A person who was a grandfathered Member of the Association prior to July 1, 1996 under section A,2,a, who terminated employment with an employer that participated in the Association, remains a Member of the Association prior to July 1, 1996. Therefore, if the Member established reciprocity between another public sector retirement plan and the Association, any higher Compensation Earnable that is earned under the other plan shall be taken into account by the Association in accordance with the rules of reciprocity and that Compensation Earnable shall not be limited by the Annual Compensation Earnable Limit.

### 7. Relationship Between Section 415 Limit and Compensation Earnable Limit

The limits of Code section 415 and Code section 401(a)(17) are separate and independent. Each limit is operated according to its own rules and applies separately. Therefore, the Annual Compensation Earnable Limit may apply to a Member and the Code section 415 limit may not apply. Similarly, the Code section 415 limit may apply to a Member and the Annual Compensation Earnable Limit may not apply. Also, both of these limits may apply to the same Member.

### 8. Clarification Concerning Member Contributions

Because Member contributions are the basis for benefits provided by the Association, Member contributions shall not be made by taking into account Compensation Earnable in excess of the Annual Compensation Earnable Limit. To the extent the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), including Government Code Section 7522.10(h) include greater limitations on the manner in which Member contributions may be calculated, such limits shall apply to the calculation of Member contributions.

### 9. General Plan Year Rule for Determining the Limit

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If Compensation Earnable for any prior plan year is taken into account in determining a Member's benefits for the current plan year, the Compensation Earnable for such prior plan year is subject to the applicable Annual Compensation Earnable Limit in effect for that prior plan year. In addition, in determining benefits for plan years beginning on or after January 1, 2002, the Annual Compensation Earnable Limit in effect for plan years beginning before that date is \$200,000. Effective January 1, 2016, for purposes of this Regulation, "plan year" means the 12-month period corresponding to the calendar year.

## SECTION III. PLAN YEAR AND COST OF LIVING ADJUSTMENTS

### A. Annual Adjustment for Cost-of-Living Increases

The Annual Compensation Earnable Limit may be adjusted annually by the Internal Revenue Service for cost of living changes in accordance with the Code.

### B. General Rule--Application of Limit to a Plan Year

In general, the Annual Compensation Earnable Limit is applied to the Compensation Earnable for the plan year on which accruals of benefits from the Association are based.

### C. Plan Year Compensation Earnable

#### 1. General Rule

To the extent that the Association determines Compensation Earnable for benefit accruals for a plan year based on Compensation Earnable for the plan year, then the Annual Compensation Earnable Limit that applies for that plan year is the limit in effect for the calendar year in which the plan year begins. Since, prior to January 1, 2016, the Association's plan year for this purpose corresponded to the fiscal year beginning on the first day of July, the Compensation Earnable used to determine all benefit accruals for each plan year prior to January 1, 2016, is limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year in which the plan year began. As part of the transition to use of the calendar year as the "plan year" for purposes of this regulation, for the period July 1, 2015 through December 31, 2015, as provided under Section II.B.4 above, the Annual Compensation Limit is an amount equal to \$265,000 multiplied by 6/12. For plan years beginning on or after January 1, 2016, the Annual Compensation Earnable Limit is the amount allowed by Code section 401(a)(17), adjusted in accordance with the Code for increases in the cost of living, for each calendar year, which for 2016 will be \$265,000.

#### 2. Member Contributions

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Since, prior to January 1, 2016, the Association's plan year was the fiscal year beginning on the first day of July, Compensation Earnable used to determine Member contributions for each plan year prior to January 1, 2016, shall be limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year in which the plan year began. As part of the transition to use of the calendar year as the "plan year" for purposes of this regulation, for the period July 1, 2015 through December 31, 2015, as provided under Section II.B.4 above, the Annual Compensation Limit is an amount equal to \$265,000 multiplied by 6/12. For plan years beginning on or after January 1, 2016, Compensation Earnable used to determine Member contributions for each plan year shall be limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year.

### D. Examples

#### 1. Example - Retirement Allowance

The retirement allowance provided by the Association for certain Members is based on the highest 12 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was \$255,000 for the 2013 calendar year, \$260,000 for the 2014 calendar year and \$132,500 for the short plan year beginning July 1, 2015 and ending December 31, 2015, and will be \$265,000 for the 2016 calendar year. A Member retires in May, 2016. The Member's highest 12 consecutive months of Compensation Earnable is for the period May 1, 2015 through April 30, 2016. The Annual Compensation Earnable used for determining this Member's benefits is limited to \$260,000, because this is the limit in effect for the 2014 calendar year that applied to the July 1, 2014 to June 30, 2015 plan year in which the 12-consecutive month period began.

For some Members of the Association, including Members subject to the requirements enacted under the Public Employees' Pension Reform Act of 2013 ("PEPRA"), the retirement allowance provided by the Association is based on the highest 36 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was \$250,000 for the 2012 calendar year, \$255,000 for the 2013 calendar year, \$260,000 for the 2014 calendar year and \$132,500 for the short plan year beginning July 1, 2015 and ending December 31, 2015 (the prorated \$265,000 limit for the 2015 calendar year), and will be \$265,000 for the 2016 calendar year. A Member retires in May 2016. The Member has \$300,000 per year (\$25,000 per month) of Compensation Earnable during the Member's highest 36 consecutive months of Compensation Earnable for the period May 1, 2013 through April 30, 2016. The Association may not base the Member's benefits for 2016 on annual Compensation Earnable in excess of \$255,000, the average of the limits in effect for each of the three 12-consecutive month periods: the May 1, 2013 through April 30, 2014 period is capped at \$250,000, the 2012 limit; the May 1, 2014 through April 30, 2015 is capped at \$255,000,

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the 2013 limit; and the May 1, 2015 through April 30, 2016 is capped at \$260,000, the 2014 limit. The average of these capped amounts is the Annual Compensation Earnable Limit for determining benefits for the 2016 plan year for a member who retires in May, 2016 because that is the limit for the calendar years that applied to the plan years in which the member's average compensation earnable begins.

### 2. Example: Member Contributions

The refund or withdrawal benefits from Member contributions are accrued on an annual basis. The Annual Compensation Earnable Limit was \$255,000 for the 2013 calendar year; \$260,000 for the 2014 calendar year; \$132,500 for the short plan year beginning July 1, 2015 and ending December 31, 2015 (the prorated \$265,000 limit for the 2015 calendar year); ; and \$265,000 for the 2016 calendar year.

Since, prior to January 1, 2016, the Association's plan year for this purpose corresponded to the fiscal year, the Annual Compensation Earnable Limit was \$255,000 for the entire plan year beginning July 1, 2013 and ending June 30, 2014; \$260,000 for the entire plan year beginning July 1, 2014 and ending June 30, 2015; \$132,500 for the short plan year beginning July 1, 2015 and ending December 31, 2015; and \$265,000 for the plan year beginning January 1, 2016, and ending December 31, 2016. For plan years beginning on or after January 1, 2016, the Annual Compensation Earnable Limit is the amount allowed by Code section 401(a)(17), adjusted in accordance with the Code for increases in the cost of living, for each calendar year.