Teacher Pensions and the *Income Tax Act* Frequently Asked Questions

The pension benefit paid out under the Teachers' Pension Plan (the Plan) is governed by a formula that includes a calculation of a benefit that is based on a best five-year average salary multiplied by the plan member's years of pensionable service. Each year of employment, a full-time plan member earns one year of benefit. That yearly benefit amount is used to determine remaining RRSP room and whether the plan member's benefit is above the Canadian *Income Tax Act* (ITA) maximum.

Example of a pension benefit earned in 2013 for a plan member (a principal) with a salary of $125,490:

1.4% of earnings to the five-year average YMPE* of $51,100 = $715.40

Plus

2% of earnings over the YMPE = $1,487.80

The pension benefit earned in 2013 is expressed as the

Pension Formula Number (PFN) = $2,203.20

This is lower than the 2013 maximum of $2,696.67

*YMPE is the yearly maximum pension earnings used to calculate pensions and contributions for Canada Pension Plan (CPP). Because plan members receive CPP on those earnings, they receive less from the Plan.

The ITA places limits on how much pension can be earned in one calendar year. Plan members who earn more than $154,250 in 2014 do not pay any contributions on salary earned above the ITA maximum, nor do they earn any pension on salary above it.

The *Teachers' Pension Plan Act* regulation, proclaimed in 1995, contains a provision that dictates how the ITA maximums are to be applied to plan member pension benefits at the time of retirement. Even though the plan member's five-year average is already capped by the yearly ITA maximums, the regulation also applies the ITA maximum in effect in each year since 1992 to the plan member's current PFN.

Section 1(1)(ii) of Schedule 1 of the *Teachers' and Private School Teachers' Pension Plans* (AR 293/95) reads as follows:
1(1)(ii) "pensionable salary" means, subject to clause (jj) and section 25(3) and (4),
(i) in respect of a calendar year before 1992, salary, and
(ii) in respect of any calendar year after 1991, salary that is compensation within the meaning of the tax rules, subject however to such limitation as is necessary to ensure that no benefit accrual exceeds the defined benefit limit that was contemporaneously in force in that year under the tax rules for that year (disregarding any subsequent retroactive change);

A plan member whose yearly benefit has been less than the maximum each year now may have his or her pension capped because the PFN derived from the member's best five-year average salary is above the maximums that existed in past years.

For example, this would be the plan member's pension calculation without applying caps from past years:

A principal retires in December 2013, after 30 full years of service. Based on a five-year average salary of $117,324, the principal's Pension Formula Number (PFN) is $2,054.88. The principal's annual salary was never more than the ITA maximum in any one year; therefore, the principal has paid contributions on his or her total salary.

This number is multiplied by the 30 years of service to derive a basic pension entitlement of $61,646.40.

This is the pension paid for and earned by the principal. However, the ITA pension benefit cap as it existed each year since 1992 is now applied to this same teacher:

The ITA cap is now applied. For 1983 to 1991, there is no cap, so the teacher continues to receive the full value of the PFN of $2,054.88 for those years of service.

From 2007 to 2013, the ITA cap is higher than the PFN, and the teacher receives the full value of PFN of $2,054.88 for those years of service.

However, from 1992 to 2005, the ITA cap is *lower* than the PFN. Therefore, for those 15 years, the teacher receives only the lower value. The difference between the PFN and the ITA cap for each year reduces the annual pension by a total of $4,270.15 annually. The principal receives a pension of $57,376.05.

Year by year, the comparison between the PFN earned and the cap applied is

	Benefit Limit Under ITA	Pension Formula Number	Application of Rule
2013	$ 2,696.67	$ 2,054.88	$ 2,054.88
2012	$ 2,646.67	$ 2,054.88	$ 2,054.88
2011	$ 2,552.22	$ 2,054.88	$ 2,054.88
2010	$ 2,494.44	$ 2,054.88	$ 2,054.88
2009	$ 2,444.44	$ 2,054.88	$ 2,054.88
2008	$ 2,333.33	$ 2,054.88	$ 2,054.88
2007	$ 2,222.22	$ 2,054.88	$ 2,054.88
2006	$ 2,111.11	$ 2,054.88	$ 2,054.88
2005	$ 2,000.00	$ 2,054.88	$ 2,000.00
2004	$ 1,833.33	$ 2,054.88	$ 1,833.33
2003	$ 1,722.22	$ 2,054.88	$ 1,722.22
2002	$ 1,722.22	$ 2,054.88	$ 1,722.22
2001	$ 1,722.22	$ 2,054.88	$ 1,722.22
2000	$ 1,722.22	$ 2,054.88	$ 1,722.22
1999	$ 1,722.22	$ 2,054.88	$ 1,722.22
1998	$ 1,722.22	$ 2,054.88	$ 1,722.22
1997	$ 1,722.22	$ 2,054.88	$ 1,722.22
1996	$ 1,722.22	$ 2,054.88	$ 1,722.22
1995	$ 1,722.22	$ 2,054.88	$ 1,722.22
1994	$ 1,722.22	$ 2,054.88	$ 1,722.22
1993	$ 1,722.22	$ 2,054.88	$ 1,722.22
1992	$ 1,722.22	$ 2,054.88	$ 1,722.22
1991	NA	$ 2,054.88	$ 2,054.88
1990	NA	$ 2,054.88	$ 2,054.88
1989	NA	$ 2,054.88	$ 2,054.88
1988	NA	$ 2,054.88	$ 2,054.88
1987	NA	$ 2,054.88	$ 2,054.88
1986	NA	$ 2,054.88	$ 2,054.88
1985	NA	$ 2,054.88	$ 2,054.88
1984	NA	$ 2,054.88	$ 2,054.88
Pension Payable		$ 61,646.40	$ 57,378.05

Please obtain your own estimates from ATRF. The effect of the application of the maximum may be less due to averaging or length of service.

Why is this a problem now?

In 1995, when the regulation came into effect, plan member five-year average salaries, and therefore PFNs, were well below the cap. The average salary of a principal in the largest school was approximately $75,000 in 1995, and the ITA maximum salary for the Plan for that year was $95,771. Five-year average salaries calculated in 1995 were being compared to caps in place each year since 1992.

This year, a principal with six years of education and a 500-student school will earn $125,490. That principal's five-year average salary calculated in 2013 is being compared to caps in place since 1992 that remained unchanged at $95,771 until 2004.

Which plan members does this apply to?

Plan members first faced pension reductions due to this regulation in 2008. The number of plan members affected continues to grow as more plan members have PFNs above the ITA maximum in place from 1992 to 2003.

In 2013, an average salary of $100,130 may be affected.

The 4 max as of September 1, 2013 is $92,261.

The average principal allowance for a 100-student school is $17,159.

This means that almost every plan member with an allowance is affected.

Is ATRF paying out smaller pensions than it should be?

No. ATRF must implement the Plan as it is written in the *Act* and Regulations. ATRF is applying the regulation correctly as it is written. In fact, the Plan legislation contains a provision which specifically states that the ATRF Board cannot pay out any benefit greater than what is determined by the Plan rules contained in legislation and regulation.

Does the regulation comply with the Income Tax Act*?*

Yes, the ITA sets out maximum pensions that a plan can pay out. The Plan is paying out less than the maximum and is therefore in compliance with the ITA.

Could the Plan pay more and still be in compliance?

Yes, the maximum that can be paid is the maximum yearly benefit in place each year. As long as the five-year average salary is below the maximum salary in that year ($150,305 in 2013), the maximum benefit will not be exceeded.

What would have to happen to change how the caps are implemented?

To implement the change on a go-forward basis, the two sponsors (the Alberta Teachers' Association and the Government of Alberta, represented by the Minister of Education) would have to agree to the change. The board would amend the regulation, which would need to be approved by Cabinet.

To increase pensions already being paid, the *Teachers' Pension Plan Act* itself would have to be amended in the Legislature.

Why wouldn't the government want to change how the ITA caps are implemented?

Because there is a cost involved. While teachers are paying the full cost of the full benefit, the "cost" is actually the loss of a gain to the Plan. However, this unexpected gain to the plan is very small in relation to the value of the Plan and would not result in increased liability.

There are also political considerations at play, due to the widespread attack on defined-benefit and public-sector pension plans.

What effect does this regulation have on the pre-1992 service paid for entirely by the government?

Because there was no ITA maximum prior to 1992, there is no material effect on pre-1992 service. Government's costs for pre-1992 service would not increase.

Do any other Alberta public sector plans have this type of regulation?

No, the Teachers' Pension Plan is the only one. The inclusion of this regulation stems from the huge unfunded liability in the Plan at the time the regulation was adopted.

Would contributions increase if the regulation were changed?

No, members have already contributed the amount required to fund their pensions and the loss of such a small gain is immaterial to the funding of the plan.

Should plan members be advocating for a change to the ITA?

No, a change to the ITA is not necessary to fix this problem.

Does this mean that some plan members are paying for a benefit they are not receiving?

Yes. Those plan members contributed on salary up to the maximum in place each year, but their current pension benefit is being capped by pension benefit maximums in effect since 1992. The government also contributed its half of current service cost based on the plan member's actual salary up to the maximum in place each year.

The table below reflects the loss to a principal at 6 max with 500 pupils and 30 years of service in each of the six years (2008–13):

Year	Pension based on actual contributions	Reduced pension after application of ITA	Loss of pension per year of retirement
2008	$52,727	$52,303	$ 424
2009	$54,772	$53,530	$1,242
2010	$57,041	$54,823	$2,217
2011	$59,450	$56,189	$3,262
2012	$61,869	$57,491	$4,372
2013	$61,646	$57,376	$4,270

Please obtain your own estimates from ATRF. The effect of the application of the maximum may be less due to averaging or length of service.

What is being done about this?

In the spring of 2012, the ATRF Board made a request to the two sponsors of the Plan (the Association and the Government of Alberta), outlining the issue and asking them to consider possible action. Although the Association recommended a change to the regulation, the Minister of Education refused. The Association is seeking alliances with other organizations and considering other approaches.

I am a plan member who is affected by the cap. What can I do?

Affected teachers should consider writing to the two sponsors: the Minister of Education and Dr Gordon Thomas, Executive Secretary of the Association. Send an additional copy of your letter to Emilian Groch, CEO of ATRF. Point out the reduction to your pension and calculate the potential negative impact for the length of your retirement. Emphasize that you have paid the required contributions for a full pension and that you should receive the pension for which you paid.

I am a plan member who is affected by the cap. Should I delay retiring?

On your pension estimate you will see a "basic annual pension" amount and then a "pension reduced to the ITA max" amount if you are affected. It is the second amount that will be your pension, and your decision to retire should be based on that amount. The Association cannot promise that this issue will be resolved quickly. Nor can we promise that the resolution will include a recalculation of pensions already in pay. Ultimately, plan members each need to make their own decision based on the pension they know they will receive.

I am a plan member who is not affected by the cap. Why should I care about this issue?

First, the cap is going to affect more and more plan members in upcoming years. By 2014, all teachers with more than four years of university education and who are receiving allowance will be affected.

Second, the unfair treatment of some members of the teaching profession is a concern to all members of the profession. Those plan members will not derive the same benefit in retirement from the plan as other plan members. They are not getting the benefit they paid for.

Year	Pension based on actual contributions	Reduced pension after application of ITA	Loss per year of retirement	Loss after 28 years of retirement
2008	$52,727	$52,303	$ 424	$ 11,877
2009	$54,772	$53,530	$1,242	$ 34,781
2010	$57,041	$54,823	$2,217	$ 62,100
2011	$59,450	$56,189	$3,262	$ 91,335
2012	$61,869	$57,491	$4,372	$ 122,428
2013	$61,646	$57,376	$4,270	$ 119,560

Please obtain your own estimates from ATRF. The effect of the application of the maximum may be less due to averaging or length of service.

Number of teachers affected

Fiscal Year	Number of pensions affected
2006/07	16
2007/08	41
2008/09	58
2009/10	45
2010/11	45
2011/12	108
2012/13	99
2013/14 (Yr to date to Dec/13)	32
Total	444

I am affected by this. If I work longer will my pension actually decrease?

No. Additional years of service will still increase your pension. The effect on the salary will grow, however, so your pension will not increase as much as it would without the cap.

ITA benefit maximums in effect

Year	Maximum pensionable salary	Maximum PFN
2014	$154,250.00	$2,770.00
2013	$150,305.60	**$2,696.67**
2012	$147,363.50	$2,646.67
2011	$142,101.00	$2,552.22
2010	$138,882.00	$2,494.44
2009	$136,112.00	$2,444.44
2008	$130,136.50	$2,333.33
2007	$124,221.00	$2,222.22
2006	$118,185.50	$2,111.11
2005	$112,330.00	$2,000.00
2004	$103,816.50	$1,833.33
2003	$ 98,081.00	$1,722.22
2002	$ 97,841.00	$1,722.22
2001	$ 97,391.00	$1,722.22
2000	$ 97,331.00	$1,722.22
1999	$ 97,181.00	$1,722.22
1998	$ 96,851.00	$1,722.22
1997	$ 96,731.00	$1,722.22
1996	$ 96,581.00	$1,722.22
1995	$ 96,431.00	$1,722.22
1994	$ 96,131.00	$1,722.22
1993	$ 95,771.00	$1,722.22
1992	$ 95,771.00	$1,722.22