

## 2009/10 LTD COMPANY CERTIFICATE - FREQUENTLY ASKED QUESTIONS

### **GENERAL**

**Q. What is the deadline for completing the 2009/10 Certificate?**

A. The deadline for completing the 2009/10 Certificate and sending it to the host PCT/LHB would normally be the 28th of February 2011. However taking account of the delay in releasing it the deadline has been extended. Please make every effort to have it completed by Easter 2011.

**Q. Is the deadline a strict deadline?**

A. Usually, yes.

**Q. Where should the Certificate be sent?**

A. To the Provider's host/commissioning PCT or LHB.

**Q. What is a host PCT/LHB?**

A. The host PCT/LHB in respect of a GP Provider is the commissioning PCT/LHB. Therefore a GP Provider with several Practices/Centres may have more than one host PCT/LHB.

In respect of a non-GP Provider the host PCT/LHB is always the commissioning PCT/LHB.

**Q. Why do I have to complete the Certificate on an annual basis?**

A. A Provider's pensionable pay is based on their NHS income, less expenses. Therefore the only way to measure a Provider's pensionable pay is for them to complete an individual Certificate.

**Q. I have retired from my Provider post; do I still have to complete the Certificate?**

A. Yes, if you were in 'pensionable employment' during 2009/10.

You may also complete the Certificate solely for the purposes of establishing the seniority allowance even if you were not an active Scheme member in 2009/10.

**Q. What happens if I don't complete the Certificate?**

A. GP (and non-GP) Providers are legally bound to complete the Certificate. Not completing it Certificate will have a detrimental effect on their (and their dependents) NHS pension benefits and any seniority allowance.

**Q. My accounting year-end is 5 April. This falls after the NHS Pension Year of 31 March in a fiscal year. Do I still include my tax return entries on the certificate for a period that finishes 5 days earlier?**

A. 31 March is the NHS Pension Scheme 'year end' corresponding to the tax 'year end'. Whilst the tax year finishes on 5 April each year, the NHS Pension Scheme 'year end' finishes on 31 March each year. To all intents and purposes, the '5 day' difference between these dates can be ignored. This prevents anomalous treatment whereby an accounting year ended 5 April 2010 falls into the tax year 2009/10, but not into the NHS Pension Scheme year ended 31 March 2010. Because an accounts year ended 5 April falls into the tax year, this will also be deemed to fall into the Pension Scheme year. The golden rule is that the tax return entries form the basis of the pensionable pay.

**Q. I am a non-GP Provider; do I still complete the Certificate?**

A. Yes. Every non-GP Provider must complete the Certificate annually. As non-GP Providers are classed by the Scheme as 'whole time Officers' (regardless of the hours they work) they can only be 'pensionable' in one post and therefore may only be required to complete one Certificate. By virtue that non-GP Providers are classed as whole-time they must decide, after seeking expert advice, which of their NHS posts should be pensionable.

- Q. I am a GP Provider in two or more separate Practices/Centres; do I need to complete two Certificates?**
- A. Yes, even if the Practices are located within the same PCT/LHB boundary.
- Q. I am a GP Provider; do I have to complete more than one Certificate if I had more than one host PCT or LHB in the same year?**
- A. If you relocated during the year then you must complete a Certificate in respect of each Practice. However, if your host PCT/LHB changed due to a PCT/LHB merger (but you did not change Practices) only one Certificate is required. If you moved from England or Wales to Scotland or Northern Ireland you will need to complete one Certificate in respect of England/Wales and another in respect of Scotland or Northern Ireland.
- Q. I am a salaried GP (i.e. a Performer) directly employed (i.e. schedule E) by a Practice, PCT, LHB, or SPMS/APMS Provider; do I have to complete a form?**
- A. Yes, you are legally required to complete a Type 2 self-assessment form at the end of pensions year 2009/10. This is to ensure you have paid the correct rate of tiered contributions.
- Q. What do I do if I am subject to 'pensions overlap'?**
- A. You should seek assistance from an accountant.
- Q. What is a NHS Pension Scheme Employing Authority (EA)?**
- A. A Scheme Employing Authority, for the purposes of 'pensioning' GPs NHS income (as a Provider) is generally a PCT, Local Health Board, OOHP, and their own Practice.
- Q. Are GP shareholders eligible for seniority payments?**
- A. Much depends on the contract; GP shareholders should seek clarification from their PCT/LHB.
- Q. My GMS/PMS/APMS Practice converted from being a partnership to a limited company on the 1<sup>st</sup> of October 2009, how does this affect the Certificate?**
- A. Each GP (and non-GP) Provider must complete 2 Certificates, the main Certificate covering the period 01/04/2009 to 30/09/2009 and the Ltd Co Certificate covering the period 01/10/2009 to 31/03/2010.
- Q. I am a GP with my own Ltd Co Practice however, for tax reasons, have separately set up another Ltd Co as a 'vehicle' for my fringe NHS (i.e. PEC, OOHs) income to flow through; is this pensionable?**
- A. No. If you have set up a limited company yourself (as an individual) that is a separate legal entity to your Practice any income that is paid to you cannot be pensionable. This is because the 'unique' limited company that you have set up does not qualify under the Regulations as an 'Employing Authority' or 'GP Provider'.

### ***PENSIONABLE INCOME (DIVIDENDS & SALARY)***

- Q. What is classed as NHS pensionable pay in 2009/10?**
- A. Please see Annex A below.
- Q. I am a GP Shareholder; do I have to 'pension' all of my NHS GP work?**
- A. Yes, you must 'pension' all of your NHS GP (Practitioner) income; you cannot opt out of 'pensioning' certain parts of Practitioner income. As far as the Ltd Co Practice/Centre is concerned you must 'pension' all the income you draw down.

You can opt out of pensioning salaried Officer posts such as hospital based clinical assistant or community posts however you cannot opt out of pensioning bed fund posts.

**Q. How should a Ltd Co Practice/Centre 'pension' OOHs income?**

A. Where the OOHs income is paid to the Practice/Centre and allocated directly to the GP who earned it the OOHs income must include the 14% employer contributions.

A. However a GP Shareholder may find it helpful for their SOLO income to be paid into their personal account rather than the Practice/Centre account. This should make it easier if the OOHs has to collect arrears of employee tiered contributions because it did not apply the correct tiered rate in the first instance.

**Q. I am a GP Provider, can I pension income as a GP Provider through my own Practice earned from working for another Practice that I may (or may not) be involved in as a Partner or shareholder?**

A. No. This is strictly forbidden under the NHS Pension Scheme Regulations.

**Q. I am a GP Provider, can I 'pension' work as a GP Locum in my own Practice(s)?**

A. No. This is strictly forbidden under the NHS Pension Scheme Regulations.

**Q. Is medical school income pensionable?**

A. No. Although some medical schools are granted special Scheme 'Direction' Status, any fees paid to a GP (or Practice) by a medical school are not 'pensionable'. Only salaried employees of an open 'Directions body' may join the Scheme.

**Q. Is prison work pensionable?**

A. Yes, however only if the fees are being paid directly to the GP/Practice by the PCT/LHB.

**Q. How should PEC income be recorded?**

A. All GPs (except GP Locums) must 'pension' their PEC income. GP Shareholders can elect to either SOLO or pool their PEC income.

PCTs/LHBs must not set up a unique pensionable employment in respect of fee based PEC work; this is in accordance with previous guidance, the NHS Pension Scheme Regulations, and Health Service Circular 2000/005 issued by the Dept of Health in March 2000.

**Q. What is deemed pensionable sick pay?**

A. GPs who suffer a genuine loss of pensionable income as a result of illness may qualify for deemed sick pensionable pay to be credited to their pension records; they should contact their PCT/LHB or the NHS Pensions for advice. Evidence may be asked to demonstrate a genuine loss in pensionable income.

**Q. The GP (and non-GP) Providers (i.e. shareholders) draw down their profits as a combination of salary and dividends. Are the dividends pensionable?**

A. Where a Practice is a limited company, any dividends 'drawn down' are pensionable subject to them being solely in respect of NHS work.

**Q. Are the gross dividends or the net dividends pensionable?**

A. The net dividends.

**Q. Are all the net dividends and salary pensionable?**

A. No, only those wholly attributable to your NHS income.

**Q. Is a capital distribution of funds pensionable?**

- A. No. Only income in the form of dividends and salary taken are pensionable.
- Q. For a GP shareholder taking a salary, why is superannuation not deducted at source like for other staff?**
- A. Because different NHS Pension Scheme rules apply for GPs.
- Q. What happens when there are sources of non-NHS income in the company accounts?**
- A. That element of non-NHS income must be stripped out of the dividend and salary so that it is not pensioned.
- Q. How is the non-NHS income stripped out of a salary?**
- A. Simply by applying the percentage of NHS income to total income from the company accounts year end falling into the tax year 2009/10 to the salary taken in that tax year.
- Q. But where the accounting year-end is not March, the percentage applied to the salary will not have been calculated upon the income for the period the salary was earned?**
- A. That is correct. However, for the ease of application, a straightforward method has been implemented.
- Q. Not all dividends have to be distributed. Where the ratio of NHS to total income varies year on year, can the payment of dividends not be manipulated to ensure higher or lower pensionable pay as desired?**
- A. No. There is a pooling method of carrying forward undistributed NHS profits based upon the proportion of NHS income for the year in which they were deemed to be earned and which restricts pensionable pay where more than the potential NHS dividend is taken.
- Q. What happens when an existing company has undistributed reserves brought forward from a time before an NHS contract was entered into?**
- A. Nothing. The pooling system still strips out dividends that relate to non-NHS income to ensure that the total NHS income is never more than the amount of pensionable dividend available in relation to NHS earnings.
- Q. What if there are undistributed NHS reserves that are not distributed as dividends when the shareholder sells the shares?**
- A. The opportunity to pension those reserves is lost as the final distribution is one of capital.
- Q. What happens if I dispose of, or acquire shares?**
- A. The working of the Certificate will not be affected as the pensionable pay follows your entitlement regardless of the level. Your entitlement to dividends decreases or increases appropriately.
- Q. If, once I have actually received a dividend payment, I decide to reinvest some of that money back into the company, will this affect my pensionable pay?**
- A. No. Funds reinvested by shareholders are designated as loans and will not therefore alter the company's profits. Consequently the same income will not be pensioned twice.
- Q. What are the tax implications regarding the 'pensioning' of dividends?**
- A. NHS Pensions cannot provide financial or tax advice; please consult HMRC.

## **TIERED EMPLOYEE CONTRIBUTIONS/EMPLOYER CONTRIBUTIONS**

**Q. How are a GP (or non-GP) Provider's tiered contributions assessed in 2009/10?**

A. They are basically based on their 2009/10 total GP pensionable pay, table as follows.

Tier	Actual Pensionable Pay – 2009/10	Contribution Rate 2009/10
1	Up to £20,709	5%
2	£20,710 to £68,392	6.5%
3	£68,393 to £107,846	7.5%
4	£107,847 plus	8.5%

- The basic rule is that a GP (or non-GP) Provider's 2009/10 tiered contribution rate is based upon their total 2009/10 certified NHS pensionable pay. For a GP Provider this includes Practice income + GP Locum + OOHs + PEC + Bed Fund income. Pennies are ignored for the purposes of setting a tier.
- Before the start of the pensions year every GMS or PMS Practice (and every APMS contractor that qualifies an Employing Authority) must complete a form declaring a best estimate of projected pensionable in respect of the GP Providers, non-GP Providers, and Salaried GPs. This form can be downloaded from NHS Pensions website and must be returned to the relevant PCT/LHB before the pension year starts. If a Practice fails to complete the declaration the PCT/LHB may set a standard 8.5% rate.
- If you a GP holds a concurrent salaried Officer post (i.e. Clinical Assistant) that Officer income is kept separate and will be afforded it's own unique tier; i.e. it is ring fenced.
- Guidance for freelance GP Locums is available on Locum forms A and B.

## **OUT OF HOURS PROVIDERS**

**Q. Not all OOHs are Scheme Employing Authorities, how will I know which are?**

A. Please refer to Annex B below.

## **ADDED YEARS/ADDITIONAL PENSION**

**Q. I am a buying 'Added Years'; do I have to pay additional contributions on all of my NHS GP income?**

A. Yes, if you are buying added years you must also pay additional contributions in respect of all your pensionable NHS income. If you were subject to the earnings cap your Added Years contributions may be capped; please refer to TN17/2008, (<http://www.nhsbsa.nhs.uk/Pensions/2499.aspx>).

**Q. Where can I find more information about the new Additional Pension?**

A. On NHS Pensions website; <http://www.nhsbsa.nhs.uk/Pensions/calculators.aspx>.

## **GP LOCUM WORK**

**Q. I am a GP Provider; can I work as a GP Locum in other Practices?**

A. Yes, under certain circumstances. Please refer to TN 8/2009, (<http://www.nhsbsa.nhs.uk/Pensions/2496.aspx>). This work must be recorded on GP Locum forms A and B and there is a strict 10 week window for declaring this work.

**Q. I am a GP Provider; can I 'pension' my GP Locum income as a GP Provider through my Ltd Co accounts?**

A. No. A GP Locum pensionable post is afforded different pension rights to a GP Provider post and must be kept separate.

## **ANNEX A**

### GP Shareholders Pensionable Pay

GP Shareholders (i.e. type1/Principal Practitioners) pensionable income is listed below and is subject to the payments being net of expenses. The fees must be in respect of NHS primary medical services and be paid directly to the GP (or Practice) by a PCT, a LHB, or Out of Hours Provider (that qualifies as a NHSPS Employing Authority). GP Providers must 'pension' income in respect of the following;

Additional services

Adoption and fostering work (Collaborative services)

APMS (Alternative Provider of Medical Services: Technical Newsletter 6/2007 refers).

Appraisal work

Blue (disabled) badge scheme (Collaborative services)

Board and advisory work (non-clinical work and includes Primary Care Trust Executive Committee (PEC) work.

Case conference and other meetings arranged by Social Services (Collaborative services)

Certificates to enable chronically disabled/blind persons to obtain telephones (Collaborative services)

Certification services

Collaborative services (in accordance with section 26(4) of the 1977 Health Act)

Commissioned services

Contact price (PMS)

Dispensing

Dispensing services (i.e. the provision of drugs, medicines, and appliances).

Educating medical students or GPs in a Practice (The fees must come directly from the PCT/LHB and not a medical school or university)

Enhanced services (direct, local, or national)

Essential services

Family planning (Commissioned services)

Food poisoning notifications (Commissioned services)

General/Personal Dental Services

General Ophthalmic Services

Global sum (GMS)

GMS

GP Locum work (This work must always be recorded on GP Locum forms A, & B which can be downloaded from the NHS Pensions website. It must never be recorded on form SOLO or paid (as pooled pensionable income) into the Practice accounts. A GP Provider cannot record GP work as GP Locum work in their own Practice)

GPsWSI (GPs with special interests) work (Commissioned services)

IT

Lecture fees (Commissioned services)

Marriage difficulty sessions (Commissioned services)

Medical certificates (as listed in the GMS Contracts Regulations)

Out Of Hours work for a PCT, LHB, Trust, or an OOHP that is an Employing Authority.

PCT sessions (Commissioned services)

PCO administered funds

PEC

PMS

Practice Based Commissioning (PBC) (Only if paid **direct** to a GP, or GMS/PMS Practice, by a PCT/LHB)

Premises (i.e. notional rent)

Priority housing reports requested by local authorities, (Collaborative services)

Prisoners healthcare (Fees in respect of a prisoner's healthcare are pensionable subject to the PCT/LHB paying the fees directly to the GP/Practice)

QOF (quality and outcome framework)

'Section 12' or mental health work (Collaborative services)

Seniority payments

Sessional work commissioned by family planning clinics (Collaborative services)

Social services reports (Collaborative services)

SPMS (Specialist Personal Medical Services: Technical Newsletter 6/2007 refers)

**(NB: GPs must 'pension' all of their Practitioner (GP) NHS income)**

#### GP Shareholders Income That Is Not Pensionable

Fees paid to a GP (or Practice) by a LMC, a medical school, a NHS Pension Scheme 'Direction Body' (i.e. a hospice), the police, the DWP, a Local Authority, the Ministry of Defence, or by the NHS Pensions Division (in respect of NHS ill health pension or Injury Benefit Scheme medical reports) are not pensionable.

Fees paid to a GP in respect of the national 'Drug Intervention Programme' and private fees (i.e. travel vaccination fees not funded by the NHS) are not pensionable.

Fees paid to a GP by a hospital under a 'honorary contract' or under a service level agreement are not generally pensionable however contact NHS Pensions for further guidance.

Funds that a Practice may inherit from another business, by virtue of acquiring that business, and that are drawn down later as a salary or dividends are not pensionable in the NHS Pension Scheme.

#### Non GP Providers Pensionable Pay

A non-GP Provider (i.e. Shareholder) is classed as whole time Officer for NHS Pension Scheme purposes. Their NHS pensionable pay is their share of the GMS/PMS/SPMS/APMS Practice NHS profits less expenses. This will include pensionable income in respect of 'ad hoc' GP work that any GP Shareholders have elected to 'pool'.

**Non-GP Providers can only 'pension' income from one Practice/Centre**

## **ANNEX B**

Out of Hours Providers that were NHS Pension Scheme Employing Authorities (EAs) during 200910.

### **Badger Healthcare Ltd**

EA status: 01/09/2009 (EA Code: W229)

### **Banes Emergency Medical Services**

EA status: 01/10/05 (EA Code: W314)

### **BEDOC (Bedford On Call)**

EA status: 01/08/2004 (EA Code: W206)

### **Birmingham & District GP Emergency Room Ltd**

EA status: 01/04/05 (EA Code: W215)

### **BRISDOC Healthcare Services Ltd**

EA status: 01/07/05 (EA Code: W316)

### **CAMIDOC Ltd: *Ceased trading in September 2010***

EA status: 01/04/05 (EA Code: W214)

### **Cambridgeshire Doctors On Call Ltd**

EA status: 01/10/04 (EA Code: W222)

### **Central Notts Clinical Services Ltd**

EA status: 06/12/04 (EA Code: W204)

### **Chorley Medics Ltd**

EA status: 01/10/04 (EA Code: W110)

### **CUEDOC Ltd**

EA status: 01/04/04 (EA Code: W101)

### **Derbyshire Health United Ltd**

EA status: 20/10/06 (EA Code: W225)

### **Devon Doctors Ltd**

EA status: 01/10/04 (EA Code: W303)

### **East Berkshire Primary Care OOHs Services**

EA status: 01/10/04 (EA Code: W306)

### **East Lancs Medical Services Ltd**

EA status: 01/10/2009 (EA Code: W117)

### **EDICS Ltd**

EA status: 01/08/2005 (EA Code: W315)

### **FRENDOC Ltd**

EA status: 31/10/04 (EA Code: W312)

### **Fylde Coast Medical Services (NW) Ltd**

EA status: 01/04/05 (EA Code: W103)

### **Gateshead Doctors On Call**

EA status: 01/04/07 (EA Code: W116)

### **GOTODOC Ltd**

EA status: 01/12/04 (EA Code: W106)

**Halton Health Ltd**

EA status:01/04/09 (EA Code: W317)

**Herts Urgent Care Ltd**

EA status: 01/09/08 (EA Code: W227)

**Invicta Health Community Interest Company**

EA status: 01/05/2009 (EA Code: W318)

**KEYDOC Ltd**

EA status: 01/01/05 (EA Code: W203)

**Local Care Direct**

EA status: 01/10/04 (EA Code: W112)

**London Central West Unscheduled Care Collaborative**

EA status: 01/07/05 (EA Code: W213)

**M-DOC LTD**

EA status: 01/07/04 (EA Code: W208)

**Mastercall OOHs Services**

EA status: 01/04/05 (EA Code: W108)

**NEMS Community Benefits Service Ltd**

EA status: 01/10/04 (EA Code: W202)

**NENEDOC Ltd**

EA status: 01/08/04 (EA code W203)

**North Bristol Doctors Ltd**

EA status: 01/11/04 (EA Code: W309)

**North Hants Urgent Care**

EA status: Oct 2006 (EA Code: W304)

**North Staffs Urgent Care Ltd**

EA status: 01/04/04 (EA Code: W200)

**Northern Doctors Urgent Care Ltd**

EA status: 01/09/04 (EA Code: W104)

**Out of Hours West Lancashire Ltd**

EA status: 01/04/04 (EA Code: W102)

**Partnership Of East London Co-Operatives (PELC) Ltd**

EA status: 01/12/04 (EA Code: W216)

**Principal Medical Ltd**

EA status: 01/04/07 (EA Code: W226)

**SAGPEC Ltd**

EA status: 01/04/05 (EA Code: W111)

**Shropshire Doctors' Co-operative Ltd**

EA status: 01/10/04 (EA Code: W201)

**SOUTH DOC Services Ltd**

EA status: 01/10/04 (EA Code: W223)

**South East Health Ltd** (EA Code: W313)

**Southport & Formby Out of Hours Centre Ltd**

EA status: 01/04/04 (EA Code: W100)

**St Helens Rota**

EA status: 01/04/06 (EA Code: W115)

**Suffolk Doctors On Call Ltd**

EA status: 01/10/04 (EA Code: W217)

**Swansea OOHs Services Ltd**

EA status: 01/10/04 (EA Code: W205)

**THAMESDOC**

EA status: 01/04/05 (EA Code: W311)

**Urgent Care Ltd (Social Enterprise)**

EA status: 01/05/09 (EA Code: W228)

**Urgent Care 24 Ltd**

EA status: 01/11/04 (EA Code: W113)

**WALDOC Community Benefit Society**

EA status: 01/12/04 (EA Code: W211)

**Wolverhampton Doctors On Call**

EA status: 01/04/06 (EA Code: W224)