

Abolition of Offsetting Arrangement

Frequently Asked Questions with Answers

Q1. When will the abolition of the offsetting arrangement be implemented?

A1. The abolition of the offsetting arrangement will be implemented in tandem with the full implementation of the eMPF Platform of the Mandatory Provident Fund Schemes Authority. The eMPF Platform is expected to be in full operation by 2025.

Q2. What is the difference in the calculation of severance payment (SP) / long service payment (LSP) after the abolition of the offsetting arrangement?

A2. According to the existing Employment Ordinance (EO), the calculation of SP/LSP for monthly rated employee is two-thirds of the last monthly wages before termination of employment, subject to a monthly wage ceiling of \$22,500, for each year of service; and the maximum payment of SP/LSP is \$390,000. These ceilings of SP/LSP will remain unchanged after the abolition of the offsetting arrangement.

(1) If an employee's employment commences after the commencement date of the abolition of the offsetting arrangement (transition date)

If an employee's employment commences after the transition date, his/her SP/LSP will be calculated according to the existing provisions of EO as stipulated above. The calculation remains unchanged.

(2) If an employee's employment commences before the transition date

If an employee is already in employment before the transition date, his/her SP/LSP will comprise two portions, namely pre-transition portion and post-transition portion:

Pre-transition portion:

➤ **The last full month's wages preceding the transition date** × $\frac{2}{3}$ × years of service before the transition date

Post-transition portion:

- **The last full month's wages before termination of employment**
× 2/3 × years of service after the transition date

Example 1

It is assumed that an employer has employed an employee with four years' service before the transition date and continues to employ the employee for three years after the transition date. The employee's last monthly wages are \$15,000 preceding the transition date and \$18,000 at the time of dismissal. The amount of employee's SP/LSP is calculated as follows:

Pre-transition portion of SP/LSP	$\$15,000 \times 2/3 \times 4 \text{ years}$ = \$40,000
Post-transition portion of SP/LSP	$\$18,000 \times 2/3 \times 3 \text{ years}$ = \$36,000
Total amount of SP/LSP	$\$40,000 + \$36,000$ = \$76,000

Q3. How should the pre- and post-transition portions of SP/LSP be calculated if the total amount of an employee's SP/LSP exceeds the maximum payment of \$390,000 as stipulated in EO?

A3. If the total SP/LSP of an employee exceeds the maximum payment of \$390,000 as stipulated in EO, the amount in excess of the cap will be deducted from the post-transition portion.

Example 2

It is assumed that an employer has employed an employee with 20 years' service before the transition date, and continues to employ the employee for 10 years after the transition date. The employee's last monthly wages are \$22,500 preceding the transition date and \$30,000 at the time of dismissal. The amount of the employee's SP/LSP is calculated as follows:

Pre-transition portion of SP/LSP	$\$22,500 \times 2/3 \times 20 \text{ years}$ = \$300,000
---	--

Post-transition portion of SP/LSP	$\$22,500^* \times 2/3 \times 10 \text{ years}$ = \$150,000
Total amount of SP/LSP	\$300,000 (pre-transition portion) + \$90,000 [#] (post-transition portion) = \$390,000

* The ceiling for the monthly wages for calculating SP/LSP is \$22,500.

[#] Since the employee's total SP/LSP exceeds the maximum payment of \$390,000, the amount in excess of the ceiling (\$60,000) will be deducted from the post-transition portion.

Example 3

It is assumed that an employer has employed an employee with 27 years' service before the transition date, and continues to employ the employee for three years after the transition date. The employee's last monthly wages are \$22,500 preceding the transition date and \$25,000 at the time of dismissal. The amount of the employee's SP/LSP is calculated as follows:

Pre-transition portion of SP/LSP	$\$22,500 \times 2/3 \times 27 \text{ years}$ = \$405,000
Post-transition portion of SP/LSP	$\$22,500^* \times 2/3 \times 3 \text{ years}$ = \$45,000
Total amount of SP/LSP	\$390,000 (pre-transition portion) + \$0 [#] (post-transition portion) = \$390,000

* The ceiling for the monthly wages for calculating SP/LSP is \$22,500.

[#] Since the pre-transition portion of the employee's SP/LSP has already exceeded the maximum payment of \$390,000, the post-transition portion will be wholly deducted.

Q4. After the abolition, whether all accrued benefits derived from employers' mandatory MPF contributions (ERMC) can no longer be used to offset an employee's SP/LSP?

A4. After the abolition of the offsetting arrangement comes into effect, employers can no longer use ERMC to offset an employee's SP/LSP in respect of the employment period from the transition date (i.e. the post-transition portion).

SP/LSP before the transition date

The abolition of the offsetting arrangement has no retrospective effect. If an employee is already in employment before the transition date, employers may continue to use ERMC (irrespective of whether the contributions are made before, on or after the transition date, and irrespective of whether the contributions are mandatory or voluntary) to offset an employee's SP/LSP in respect of the employment period before the transition date (i.e. the pre-transition portion).

Example 4

It is assumed that an employer has employed an employee with four years' service before the transition date, and continues to employ the employee for three years after the transition date. The employee's last monthly wages are \$15,000 preceding the transition date and \$18,000 at the time of dismissal. The calculation and offsetting arrangement of the employee's SP/LSP are as follows:

a)	SP/LSP of the employee	
	(i) Pre-transition portion of SP/LSP	\$40,000 (= \$15,000 × 2/3 × 4 years)
	(ii) Post-transition portion of SP/LSP (cannot be offset by ERMC)	\$36,000 (= \$18,000 × 2/3 × 3 years)
	Total:	\$76,000
b)	ERMC in respect of the 7-year employment (assuming the employee has been given only one wage increase, which takes effect on the transition date and ERMC have no profit/loss)	\$68,400 (can only be used to offset the pre-transition portion of SP/LSP)
c)	ERMC used by the employer to offset SP/LSP	\$40,000
d)	ERMC retained in the employee's MPF account	\$28,400

e)	Remaining SP/LSP payable by the employer after offsetting	\$36,000
f)	Total amount of benefits of the employee	\$104,400 (= \$76,000 SP/LSP + \$28,400 ERMC retained in the employee's MPF account)

Accrued benefits derived from employers' voluntary MPF contributions (ERVC)

ERVC can continue to be used to offset SP/LSP (irrespective of whether it is the pre- or post-transition portion of SP/LSP).

Gratuities based on length of service

Gratuities based on length of service can continue to be used to offset SP/LSP (irrespective of whether it is the pre- or post-transition portion of SP/LSP).

Q5. Is the abolition of the offsetting arrangement applicable to all employees?

A5. The abolition of the offsetting arrangement will also be applicable to occupational retirement schemes under Occupational Retirement Schemes Ordinance, the two school provident funds under the Grant Schools Provident Fund Rules and Subsidized Schools Provident Fund Rules and overseas occupational retirement schemes joined by employees from outside Hong Kong which are exempted from the MPF System. The commencement date of the abolition of the offsetting arrangement will be the same as that of the abolition of the offsetting arrangement under the MPF System.

The abolition of the offsetting arrangement will not be applicable to employees who are currently not covered by the MPF System or other statutory retirement schemes (including overseas and local domestic helpers, and employees below the age of 18 or at the age of 65 or above). Their SP/LSP, if applicable, will continue to be calculated according to the existing provisions of EO.