

I will address the methods of calculation for holiday pay and compensatory notice pay separately. Turning first to holiday pay, the RPS will pay any holiday pay owing under the Working Time Regulations (WTR) and the contract of employment, up to a maximum of 6 weeks, provided that the entitlement to the holiday pay was accrued in the 12 months ending with the insolvency date. The following is taken into account:

1. The number of days' holiday per year the employee is entitled to, either contractual or under WTR.
2. The start date of the holiday year.
3. Either the number of days or months of employment within the current holiday leave year or, if employment started within the current leave year, the number of days or months from the start of employment.
4. The number of days' holiday already taken within the current holiday leave year.
5. Days in excess of the 20 day WTR permitted to be carried forward from the previous annual leave year under a contract of employment.

If your weekly rate of pay for the purposes of calculating holiday pay entitlement exceeds the statutory limit (£430 per week from 1 February 2012), then the limit is applied at the start of the calculation to cap the rate of pay used. Tax and National Insurance are deducted from the gross amount at the basic rate, just as your employer would do so.

Turning to notice pay, statutory entitlement is calculated at one week of pay at your weekly rate after one month's service, two weeks after two years, then one week for every complete year you worked. The statutory maximum is 12 weeks. The part of your notice which you have worked but not been paid is capped at the statutory limit and subject to tax and national insurance deductions at the basic rate of tax.

The part of your notice that you have not worked is a damages claim for breach of contract and is calculated like a compensation payment. This means that any wages you get from a new job or any benefits you were entitled to (even if you did not claim them) will be deducted. This part is not taxable, although basic tax is taken into account when calculating the amount due to you so that the National Insurance Fund's liability does not exceed that of your former employer.