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Social Security: The Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO)

Background

Although participation in Social Security is compulsory for most workers, about 6% of all workers in paid employment or self-employment are not covered by the Social Security system. A worker’s employment is considered “covered” if the services performed in that job result in earnings that are subject to Social Security payroll taxes and thus are creditable for program purposes. Non-covered workers include state or local government employees who are covered under their employer’s staff-retirement system and most permanent federal civilian employees hired before January 1, 1984, who are covered under the Civil Service Retirement System (CSRS). In 2013, 28% of the nearly 22.7 million state or local government employees worked in positions that were not covered by Social Security.

The windfall elimination provision (WEP) and the government pension offset (GPO) are two separate provisions that reduce regular Social Security benefits for people who have pensions from employment that was *not covered* by Social Security.

The Windfall Elimination Provision

The WEP applies to most people who receive both a pension from non-covered work (including certain foreign pensions) and Social Security benefits based on fewer than 30 years of substantial earnings in covered employment. In 2016, the amount of substantial earnings in covered employment needed for a year of coverage (YOC) is \$22,050. This amount is adjusted annually by growth in average earnings in the economy, provided a cost-of-living adjustment (COLA) is payable. The WEP affects retired or disabled-worker beneficiaries and their eligible spouses and children, but does not apply to survivor benefits.

The regular Social Security benefit formula applies three factors—90%, 32%, and 15%—to three different levels, or brackets, of a worker’s *average indexed monthly earnings* (AIME), which is a measure of career-average earnings in covered employment. The result is the *primary insurance amount* (PIA), which is the worker’s basic benefit before any adjustments are made for factors such as COLAs, early retirement, or delayed retirement. For workers who become eligible for benefits in 2016, the PIA is determined based on the formula in **Table 1**. The Social Security benefit formula is progressive, replacing a greater share of career-average earnings for low-paid or intermittent workers than for high-paid workers.

For people with 20 or fewer YOCs who become eligible for benefits in 2016, the WEP reduces the first factor from 90% to 40%, resulting in a maximum reduction of \$428 (90% of \$856 minus 40% of \$856). (The dollar amounts in **Table 1**

are adjusted annually for average earnings growth.) For each year of substantial earnings in covered employment in excess of 20, the first factor increases by 5%. For example, the first factor is 45% for those with 21 YOCs. The WEP factor reaches 90% for those with 30 or more YOCs and at that point is phased out.

Table 1. Social Security Benefit Formula for Workers Who Attain Age 62, Become Disabled, or Die in 2016

Factor	Portion of Average Indexed Monthly Earnings
90%	of the first \$856 of AIME, plus
32%	of AIME over \$856 and through \$5,157, plus
15%	of AIME over \$5,157

The WEP includes a *guarantee* that the reduction in benefits caused by the WEP formula can never exceed more than one-half of the non-covered pension. Thus, for a worker who becomes eligible for benefits in 2016, the maximum reduction under the WEP may be less than \$428. In addition, because the WEP reduces the initial benefit amount *before* it is reduced or increased due to early retirement, delayed retirement credits, COLAs, or other factors, the difference between the final benefit under the WEP and the amount of the final benefit had the WEP not applied may be less than or greater than \$428. However, the total WEP reduction is still limited to one-half of the non-covered pension.

How Many People Are Affected by the WEP?

According to Social Security Administration data, as of December 2015, 1.7 million people, or about 3% of all Social Security beneficiaries, were affected by the WEP. The vast majority of those—1.6 million people—were retired-worker beneficiaries, which was about 4% of all retired-worker beneficiaries. The remainder were disabled-worker beneficiaries and family members of workers.

Legislative History and Rationale

The WEP was enacted in 1983 as part of major amendments designed to shore up the financing of the Social Security program. Its purpose was to remove an unintended advantage or “windfall” that the regular Social Security benefit formula provided to workers who also had pensions from non-covered employment. The regular formula was intended to help workers who spent their careers in low paying jobs, by providing them with a benefit that is relatively higher in relation to their career-average earnings in covered employment than the benefit that is provided for workers with high career-average earnings.

However, the formula could not differentiate between those who worked in low-paid jobs throughout their careers and other workers who appeared to have been low paid because they worked many years in jobs not covered by Social Security (these years are shown as zeros for Social Security benefit purposes). Thus, under the old law, workers who were employed for only a portion of their careers in jobs covered by Social Security—even highly paid ones—also received the advantage of the weighted formula, because their few years of covered earnings were averaged over their entire working career to determine the average covered earnings on which their Social Security benefits were based. The WEP is intended to remove this advantage.

The Government Pension Offset

The GPO reduces the Social Security spouse's or widow(er)'s benefits (hereinafter "spousal benefits") of most people who also receive a pension based on federal, state, or local *government employment* not covered by Social Security. The program provides benefits to the spouses and widow(er)s of insured workers, because immediate family members are presumed to be dependent on a worker for their financial support and thus are presumed to be in need of such benefits when the family experiences a loss of income due to the worker's retirement, disability, or death. In general, a spouse receives up to 50% of the worker's PIA, and a widow(er) receives up to 100% of the worker's PIA.

Under Social Security's *dual entitlement rule*, a person's spousal benefit is reduced, dollar-for-dollar, by the amount of his or her own Social Security retired or disabled-worker benefit but not below zero (i.e., a 100% offset). The difference, if any, is paid as a spousal benefit and is added to the worker's Social Security benefit. In effect, the person receives the higher of the two Social Security benefit amounts, but not both. For example, if a person is entitled to a \$600 retired-worker benefit (based on his or her own work history in covered employment) and a \$800 spousal benefit (based on his or her spouse's work history in covered employment), then the person would receive the \$600 worker benefit plus the \$200 difference between the worker benefit and the spousal benefit ($\$800 - \$600 = \$200$). The dual entitlement rule is an implicit test of a spouse's or widow(er)'s dependency on an insured worker for his or her financial support. Spouses and widow(er)s are not considered dependent if their own worker benefit is greater than their spousal benefit.

The GPO is intended to replicate the dual entitlement rule for spouses and widow(er)s who receive pensions based on non-covered work. The Social Security spousal benefit is reduced by an amount equal to two-thirds of the non-covered government pension (i.e., a 67% offset). If a person receives a monthly non-covered pension of \$900, two-thirds of that amount (or \$600) is deducted from his or her Social Security spousal benefit. For example, if the same person were also entitled to a spousal benefit of \$800, then he or she would receive \$200 per month from Social Security ($\$800 - \$600 = \$200$). The other one-third of the non-covered government pension is assumed to be equivalent to a supplementary private pension, which would not cause a reduction in the Social Security spousal benefit.

How Many People Are Affected by the GPO?

In December 2015, about 652,100 Social Security beneficiaries, or about 1% of all beneficiaries, had their benefits reduced by the GPO. Of those directly affected by the GPO, 55% were spouses and 45% were widow(er)s. The GPO affected 15% of all spouse beneficiaries and 7% of all widow(er) beneficiaries. About 73% of all GPO-affected beneficiaries had their benefits fully offset and about 27% had their benefits partially offset.

Legislative History and Rationale

The GPO was enacted in 1977, after the Supreme Court ruled that men were not required to prove that they received at least one-half of their support from their wives in order to qualify for husband's or widower's benefits. (Women were not subject to an explicit dependency test, as they were presumed to be dependent on their husbands.) The practical effect of the ruling was to make hundreds of thousands of male retirees who worked in non-covered government employment immediately eligible for Social Security benefits as spouses or widowers, adding hundreds of millions of dollars annually to the cost of the program and raising questions about whether these were unnecessary or "windfall" benefits. To prevent the payment of full Social Security spousal benefits to people receiving a pension from government employment not covered by Social Security, Congress created the GPO as part of the Social Security Amendments of 1977 (P.L. 95-216), which provided that 100% of the non-covered government pension be subtracted from the Social Security spousal benefit.

The dollar-for-dollar reduction implicitly assumed exact equivalency between government pensions and Social Security worker benefits. However, government pensions often combined the elements of a Social Security worker's benefit and a pension intended to supplement Social Security. Although a spouse covered under Social Security may have his or her spousal benefits reduced under the dual entitlement rule, that rule takes into account only his or her Social Security worker's benefits and does not count income he or she may have from a private pension.

In response to criticism that the 100% offset was therefore inappropriate, Congress lowered the GPO reduction to two-thirds of the non-covered government pension under the Social Security Amendments of 1983 (P.L. 98-21). The House-passed version of the 1983 amendments called for the reduction to be lowered to one-third of the non-covered government pension. The House proposed a one-third reduction the previous year based on the rationale that "33% approximates the portion of the CSRS annuity which is equivalent to social security retirement benefits for the average earner." The Senate-passed version of the bill contained no such provision and thus would have left standing the existing 100% offset. The conferees adopted the House provision except that the offset was set at two-thirds of the non-covered government pension.

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