

Windfall Elimination Provision



Your Social Security retirement or disability benefits may be reduced

If you work for an employer who does not withhold Social Security taxes from your salary, such as a government agency or an employer in another country, the pension you get based on that work may reduce your Social Security benefits.

The “windfall elimination provision” affects how the amount of your retirement or disability benefits is calculated if you receive a pension from work where Social Security taxes were not taken out of your pay. A modified formula is used to calculate your benefit amount, resulting in a lower Social Security benefit.

When your benefits may be affected

The windfall elimination provision primarily affects people who earned a pension from working for a government agency and also worked at other jobs where they paid Social Security taxes long enough to qualify for retirement or disability benefits. It also may affect you if you earned a pension in any job where you did not pay Social Security taxes, such as in a foreign country.

An important point: If you are a federal employee, the windfall elimination provision will affect you only if you are getting a Civil Service Retirement System pension. It will begin with the first month you get both a Social Security benefit and the CSRS pension.

This provision affects Social Security benefits when any part of a person’s federal service after 1956 is covered under the CSRS. However, federal service where Social Security taxes are withheld (Federal Employees’ Retirement System or CSRS Offset) will not reduce your Social Security benefit amounts.

Your Social Security will be reduced if:

- You reached 62 after 1985; or

- You became disabled after 1985; or
- You first became eligible for a monthly pension based on work where you did not pay Social Security taxes after 1985, even if you are still working.

Why is a different formula used?

Your Social Security benefits are reduced because Social Security benefits were intended to replace only a percentage of a worker’s pre-retirement earnings. The way Social Security benefit amounts are figured, lower-paid workers get a higher return than highly paid workers. For example, lower-paid workers could get a Social Security benefit that equals about 55 percent of their pre-retirement earnings. The average replacement rate for highly paid workers is about 25 percent.

Before 1983, people who worked in jobs not covered by Social Security received benefits that were computed as if they were long-term, low-wage workers. They received the advantage of a higher percentage of benefits in addition to their other pension. Congress passed the windfall elimination provision to eliminate this advantage.

How does it work?

Social Security benefits are based on the worker’s average monthly earnings adjusted for inflation. This is a complex formula. If you do not understand it, let us know, and we will be happy to help you. We separate your average earnings into three amounts and multiply the amounts using three factors. For example, for a worker who turns 62 in 2004, the first \$612 of average monthly earnings is multiplied by 90 percent; the next \$3,077 by 32 percent; and the remainder by 15 percent.

The 90 percent factor is reduced in the modified formula and phased in for workers who reached age 62 or became disabled

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Year	Substantial earnings
1937-1950	\$900
1951-1954	\$900
1955-1958	\$1,050
1959-1965	\$1,200
1966-1967	\$1,650
1968-1971	\$1,950
1972	\$2,250
1973	\$2,700
1974	\$3,300
1975	\$3,525
1976	\$3,825
1977	\$4,125
1978	\$4,425
1979	\$4,725
1980	\$5,100
1981	\$5,550
1982	\$6,075
1983	\$6,675
1984	\$7,050
1985	\$7,425
1986	\$7,875
1987	\$8,175
1988	\$8,400
1989	\$8,925
1990	\$9,525
1991	\$9,900
1992	\$10,350
1993	\$10,725
1994	\$11,250
1995	\$11,325
1996	\$11,625
1997	\$12,150
1998	\$12,675
1999	\$13,425
2000	\$14,175
2001	\$14,925
2002	\$15,750
2003	\$16,125
2004	\$16,275

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

between 1986 and 1989. For those who reach 62 or who became disabled in 1990 or later, the 90 percent factor is reduced to 40 percent.

There are exceptions to this rule. For example, the 90 percent factor is not reduced if you have 30 or more years of “substantial” earnings in a job where you paid Social Security taxes. See the first table that lists the amount of substantial earnings for each year. If you have 21 to 29 years of substantial earnings, the 90 percent factor is reduced to between 45 and 85 percent.

The second table shows the percentage used depending on the number of years of substantial earnings.

Some exceptions...

The windfall elimination provision does not apply to survivors benefits. It also does not apply if:

- You are a federal worker first hired after December 31, 1983;
- You were employed on December 31, 1983, by a non-profit organization that did not withhold Social Security taxes from your pay at first, but then began withholding Social Security taxes from your pay;
- Your only pension is based on railroad employment;
- The only work you did where you did not pay Social Security taxes was before 1957; or
- You have 30 or more years of substantial earnings under Social Security.

...and a guarantee

If you get a relatively low pension, you are protected. The reduction in your Social Security benefit cannot be more than one-half of that part of your pension based on your earnings after 1956 from which Social Security taxes were not deducted.

Contacting Social Security

For more information, visit our website at www.socialsecurity.gov or call toll-free **1-800-772-1213** (for the deaf or hard of hearing, call our TTY number, **1-800-325-0778**). We can answer specific questions and provide information by automated phone service 24 hours a day.

We treat all calls confidentially. We also want to make sure you receive accurate and courteous service. That is why we have a second Social Security representative monitor some telephone calls.



A law that affects spouses and widows or widowers

If you receive a pension from a federal, state or local government based on work where you did not pay Social Security taxes, your Social Security spouse's or widow's or widower's benefits may be reduced. This fact sheet provides answers to questions you may have about the reduction.

How much will my Social Security benefits be reduced?

Your Social Security benefits will be reduced by two-thirds of your government pension. In other words, if you get a monthly civil service pension of \$600, two-thirds of that, or \$400, must be deducted from your Social Security benefits. For example, if you are eligible for a \$500 spouse's, widow's or widower's benefit from Social Security, you will receive \$100 per month from Social Security ($\$500 - \$400 = \$100$).

If you take your government pension annuity in a lump sum, Social Security still will calculate the reduction as if you chose to get monthly benefit payments from your government work.

Why will my Social Security benefits be reduced?

Benefits we pay to wives, husbands, widows and widowers are "dependent's" benefits. These benefits were established in the 1930s to compensate spouses who stayed home to raise a family and who were financially dependent on the working spouse. But as it has become more common for both spouses in a married couple to work, each earned his or her own Social Security retirement benefit. The law has always required that a person's benefit as a

spouse, widow, or widower be offset dollar for dollar by the amount of his or her own retirement benefit.

In other words, if a woman worked and earned her own \$800 monthly Social Security retirement benefit, but she was also due a \$500 wife's benefit on her husband's Social Security record, we could not pay that wife's benefit because her own Social Security benefit offset it. But, before enactment of the Government Pension Offset provision if that same woman was a government employee who did not pay into Social Security, and who earned an \$800 government pension, there was no offset and we were required to pay her a full wife's benefit in addition to her government pension.

If this government employee's work had instead been subject to Social Security taxes, any Social Security benefit payable as a spouse, widow or widower would have been reduced by the person's own Social Security retirement benefit. In enacting the Government Pension Offset provision, Congress intended to ensure that when determining the amount of spousal benefit, government employees who do not pay Social Security taxes would be treated in a similar manner to those who work in the private sector and do pay Social Security taxes.

When won't my Social Security benefits be reduced?

Generally, your Social Security benefits as a spouse, widow or widower will not be reduced if you:

- Are receiving a government pension that is not based on your earnings;
- Are a state or local employee whose government pension is based on a job where you were paying Social Security taxes —on the last day of employment and your last day was before July 1, 2004;

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—during the last five years of employment and your last day of employment was July 1, 2004, or later (Under certain conditions, fewer than five years may be required for people whose last day of employment falls between July 1, 2004, and March 2, 2009.);

- Are a federal employee, including Civil Service Offset employee, who pays Social Security taxes on your earnings (A Civil Service Offset employee is a federal employee who was rehired after December 31, 1983, following a break in service of more than 365 days and had five years of prior civil service retirement system coverage.);
- Are a federal employee who elected to switch from the Civil Service Retirement System to the Federal Employees' Retirement System (FERS) on or before June 30, 1988. If you switched after that date, including during the open season from July 1, 1998, through December 31, 1998, you need five years under FERS to be exempt from the Government Pension Offset;
- Received or were eligible to receive a government pension before December 1982 **and** meet all the requirements for Social Security spouse's benefits in effect in January 1977; or
- Received or were eligible to receive a federal, state or local government pension before July 1, 1983, and were receiving one-half support from your spouse.

What about Medicare?

Even if you do not receive cash benefits based on your spouse's work, you still can get Medicare at age 65 on your spouse's record if you are not eligible for it on your own record.

Can I still get Social Security benefits from my own work?

The offset applies only to Social Security benefits as a spouse or widow or widower. However, your own benefits may be reduced because of another provision of the law. Contact us for the publication, *Windfall Elimination Provision* (Publication No. 05-10045).

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