ADVANCED SALES

The Social Security Fairness Act

The Windfall Elimination Provision and the Government Pension Offset

On January 5, 2025 President Biden signed into law a bipartisan-supported significant change to the Social Security program. This legislation, titled the Social Security Fairness Act, struck down the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) provisions that applied to workers who receive a pension from a local,state or Federal Government and did not pay into the Social Security program.

The Congressional Research Service reports that 2.1 million workers in this country are impacted by the WEP offsets and 746,000 are impacted by the GPO offset. (https://crsreports.congress.gov/product/pdf/IN/IN12451)

The WEP offset applies to benefits received by workers based on their contributions in the Social Security program. The GPO offset is quite different as it only applies to spousal and or survivor benefits workers could receive because they were married.

These WEP/GPO offsets were established in 1983 when most of the Social Security rules we use today were signed into law by President Reagan. The intent at that time was to prevent extra benefits being paid to workers who did not pay Social Security payroll axes but did pay into a state sponsored benefit plan. In 2024, the maximum reduction because of the WEP offset was $587. For those with smaller benefits, the WEP reduction was capped at 50%. The amount of the reduction was based on the number of years a worker paid significant Social Security taxes. The more years of paying the Social Security tax the less the reduction of benefits at retirement. The WEP did not totally eliminate all the benefits, but it did reduce them.

For example, Mary worked in the private sector and paid into Social Security. Later in her career she switched to government service for twenty years and did not pay any Social Security taxes. Based on private sector payments, she was eligible to receive a benefit of $2,000 a month. However, due to her length of service as a government employee and her government pension, her Social Security benefit was reduced to $1,413 a month.

The Government Pension Offset, was much more punitive. If a worker qualified for spousal benefits or survivor benefits, and was receiving a government pension and did not pay Social Security taxes to earn that government pension, the GPO could reduce potential spousal benefit by two thirds of the government pension. This two thirds reduction had no limit and could reduce both the spousal and the survivor benefits to zero.

For example, assume that Bob worked in the private sector and paid Social Security taxes his entire working life. At retirement his Social Security retirement benefit at full retirement age was $3,000 a month. Mary, his wife, earned a $6,000 monthly pension teaching in a state that did not require her to pay Social Security taxes. Once Bob retired, Mary expected to receive a spousal benefit of $1,500. However, the GPO rule required that 2/3 of her pension, or $4,000 would offset against the $1,500 Social Security spousal benefit and as a result she would not receive any spousal benefit at all from Bob.

Later, when Bob died, Mary expected to receive his entire Social Security survivor benefit of $3,000 a month from Bob's record. Again, two thirds of her pension would completely offset any Social Security survivor benefits she might receive from Bob.

The elimination of the WEP and GPO dramatically improves both the retirement, and survivorship plans for workers impacted by these offsets. As a result of the Social Security Fairness Act, workers impacted by these WEP and GPO offsets will be eligible for retro-active benefits from 2024 and all future benefits in 2025 and beyond. Given the significance of these changes, workers are encouraged to revisit their current retirement planning strategies and make the appropriate adjustments.

The Congressional Budget Office projects that the elimination of WEP and GPO offsets comes at a projected 10-year cost of +/- $196 billion dollars. While the elimination of these offsets is good short-term news to those impacted by them. However, these higher payments will also increase funding pressure on the Social Security Trust Fund that provides support for current and future retirees.

Clearly these changes must be factored into the needed restructure of the future Social Security funding model. The Social Security program was successfully restructured in1983. Similar Congressional action will be needed to restructure the program before 2034.

For additional information regarding Social Security benefits please visit www.ssa.gov.

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