

## FAQs About the Windfall Elimination Provision

These Frequently Asked Questions (FAQs) provide general guidance about the Windfall Elimination Provision (WEP). They do not cover the Government Pension Offset (GPO). [Separate FAQs for the GPO are available](#). If you have questions specific to your own situation, contact your local Social Security Administration office. The FAQs assume you are or were a state or local government employee who works or worked in employment not covered by Social Security. The FAQs do not address WEP issues particular to federal employees. If you have worked in both non-Social Security-covered employment for a state or local government and the federal employment, contact your local Social Security Administration office for further details.

### KEY TERMS IN THESE FAQs

A **government pension** is a retirement benefit from non-Social Security-covered employment for a state or local government.

**Non-SS-covered employment** is work you perform for a state or local government that is not covered by Social Security.

**SSA** means the Social Security Administration.

**SS-covered employment** is work you perform that is covered by Social Security.

**SLG** means state or local government.

### WHAT IS THE WINDFALL ELIMINATION PROVISION (WEP)?

The WEP reduces the Social Security benefit for retired and disabled workers receiving government pensions, i.e., a pension from non-SS-covered employment.

### HOW DO I KNOW WHETHER THE WEP AFFECTS ME?

There are three general criteria. First, you work or worked for a SLG in non-SS-covered employment. Second, you are entitled to a government pension from that employment. The Social Security Administration (SSA) deems you to be "entitled to a pension" when you file an application for the pension and a benefit is payable. Third, you are entitled to a Social Security retirement or disability benefit.

### WHY IS THE WEP REDUCTION SO SEVERE?

The SSA uses a lower formula to calculate the WEP, which is best explained through examples.

**Example 1:** Terry worked only in SS-covered employment during her career. The SSA calculates her retirement benefit based on her average monthly earnings adjusted for inflation. It separates the average earnings into three amounts. It then multiplies each amount by a percentage, known as a **factor**. In Terry's situation, the SSA multiplies (for 2021):

- The first \$996 of Terry's average monthly earnings by **90 percent**;
- The second \$5,006 by **32 percent**; and
- Then any amount above \$6,002 by **15 percent**.

**Example 2:** Terry worked in non-SS-covered employment for the majority of her career and only a few years in SS-covered employment. SSA reduces the 90 percent factor to 40 percent. Thus, it multiplies Terry's first \$996 by **40 percent**, not 90 percent.

### **DOES THE WEP AFFECT THE SOCIAL SECURITY SURVIVOR BENEFIT TO WHICH MY SPOUSE AND MINOR CHILDREN ARE ENTITLED IF I DIE?**

No. If an individual subject to the WEP dies and has one or more survivors entitled to a benefit, the SSA recomputes the amount in a manner that eliminates the WEP and results in a higher benefit.

### **DOES THE WEP AFFECT THE SOCIAL SECURITY BENEFIT TO WHICH I'M ENTITLED THROUGH MY SPOUSE?**

No. The Government Pension Offset (GPO) reduces the benefit to which you are entitled through your spouse. If your spouse is alive, it is known as a dependent benefit. If your spouse has died, it is called a survivor benefit. The WEP, on the other hand, reduces your own Social Security benefit.

### **ARE THERE ANY EXCEPTIONS TO THE APPLICATION OF THE WEP?**

Yes. The WEP does not apply if you have 30 or more years of coverage ("YOCs," also known as "substantial earnings") under Social Security. If you have 21 to 29 YOCs, you are eligible for a partial exemption. Under a partial exemption, the 90 percent factor is reduced to between 45 and 85 percent depending on your earnings in each year you worked in SS-covered employment. SSA uses all wages on your Social Security earnings record to calculate your number of YOCs. If you have fewer than 21 YOCs, the 40 percent factor applies.

### **CAN THE WEP ELIMINATE MY ENTIRE SOCIAL SECURITY BENEFIT?**

No. The WEP's reduction of your Social Security benefit may be no more than one-half of the government pension to which you are entitled in your initial month of entitlement to the pension. However, WEP reduction is capped at a total dollar amount set by the SSA each year. The 2021 maximum WEP penalty is set at \$497.

### **WHAT HAPPENS IF I WITHDRAW MY GOVERNMENT PENSION FROM NON-SS-COVERED EMPLOYMENT IN A LUMP SUM (THAT IS, I TAKE MY EMPLOYER CONTRIBUTIONS, MY CONTRIBUTIONS, AND INTEREST AS A SINGLE PAYMENT)?**

It is treated as a government pension for WEP purposes. The pension-paying agency will usually prorate the lump sum to determine a monthly amount for WEP purposes. If it does not, the SSA has a method for determining the amount.

## **DO I AVOID THE REDUCTION UNDER THE WEP IF I MOVE FROM NON-SS-COVERED EMPLOYMENT TO SS-COVERED EMPLOYMENT?**

No, you won't unless you forfeit your right to the government pension from the non-SS-covered employment. You forfeit it by withdrawing your contributions and interest **before you are eligible to receive such a pension**. If you withdraw your contributions and interest **after you are eligible to receive such a pension**, SSA treats the withdrawal as a lump-sum pension and your Social Security benefit is subject to the WEP. It makes no difference whether you are working in Social Security-covered or non-SS-covered work before you are eligible for your Social Security benefit. The rule turns on whether you are eligible for the pension from the non-SS-covered work.

**Example:** Chris is a teacher and works in California, a state in which teachers are not covered by Social Security. She withdraws her employee contributions and interest before she is eligible to receive a pension from such work. She then moves to the state of Washington, where teachers are covered by Social Security. She begins to teach there and remains there for the remainder of her career. Because Chris has forfeited her right to a government pension from the California employment by withdrawing her employee contributions and interest, the WEP will not apply to her.

## **I HEARD THAT IF SOMEONE HAS A GOVERNMENT PENSION FROM NON-SS-COVERED MILITARY RESERVE SERVICE, HE/SHE IS NOT SUBJECT TO THE WEP. IS THAT TRUE?**

Yes. Congress exempted that type of service from the WEP.

## **CAN BOTH THE WEP AND THE GOVERNMENT PENSION OFFSET (GPO) REDUCE MY SOCIAL SECURITY BENEFIT?**

Yes. Your Social Security retirement as well as your dependent/survivor benefit may be reduced if:

1. You have some SS-covered work and some non-SS-covered work, and
2. You are or were married.

**Example:** During Tony's career, she works both in the private sector in which she was covered by Social Security and for a school district in a non-SS position. Tony's husband spends his entire career in SS-covered employment. Tony reaches the age at which she can draw a Social Security benefit. She goes to the local SSA office to apply for her benefits. Because of the WEP, Tony's own Social Security benefit is reduced unless she had 30 or more years of Social Security coverage. Because of the GPO, Tony's dependent benefit from her husband is either reduced or eliminated. If Tony had not worked in the non-SS-position for the school district, the reductions would not have applied.

## **WHY DID CONGRESS ENACT THE WEP?**

To fully understand the reason, you need to know that a Social Security benefit replaces a percentage of your pre-retirement earnings. The benefit is weighted toward lower-paid workers. The SSA uses a formula for computing the primary insurance amount (the "PIA," roughly speaking, is someone's Social Security benefit). The formula provides individuals with low average lifetime wages a proportionally higher rate of return on their contributions to Social Security than individuals with relatively high average lifetime wages. As a result, if you are a lower-paid worker, you will receive a Social Security benefit equal to about 60 percent of your

pre-retirement earnings. By contrast, if you are a higher-paid individual, your average replacement rate is about 25 percent.

If you have spent most of your career in non-SS-covered employment with a SLG and a minimal amount of time in SS-covered employment, you will appear to the SSA as a lower-paid worker. Congress enacted the WEP in the belief that you should not receive a Social Security benefit as though you are a low-paid worker, plus receive a government pension from non-SS-covered employment.

### **WHY IS THE WEP AN UNFAIR POLICY?**

The WEP causes public employees outside the Social Security system, such as educators, to lose a significant share of their Social Security benefit. It fails to account for the severe effect of the WEP on low-wage SLG employees.

The WEP also affects the teaching profession as a whole. Some individuals in SS-covered employment may wish to make a career change and go into teaching. If the teachers in their state are not covered by Social Security, those individuals will be less likely to make the change once they realize that they will lose a portion of their Social Security benefit.

### **WHAT IS BEING DONE TO ADDRESS THE UNJUST IMPACT OF THE WEP?**

The bipartisan **Social Security Fairness Act** (S. 597/H.R. 82), introduced by Sens. Sherrod Brown (D-OH) and Susan Collins (R-ME) and Rep. Garrett Graves (R-LA-6) and Rep. Abigail Spanberger (D-VA-7), would fully repeal both the GPO and WEP.