

Federal Update 2004-15

TO: NCTR Membership

FROM: Cindie Moore, Washington Counsel

RE: Developments in Windfall Elimination Provision (WEP)

The WEP is attracting attention again in Congress. Rep. Barney Frank (D-MA) has introduced a new version of his bill to lessen the WEP's effect. Rep. Clay Shaw (R-FL) is circulating a proposal that would replace the WEP with another methodology. Mr. Shaw chairs the House Social Security Subcommittee.

The WEP affects an individual who meets three conditions. First, he/she worked for a state or local government in a job not subject to Social Security taxes. Second, he/she receives a pension from such work. Third, he/she also gains eligibility for a Social Security benefit through separate employment. The WEP reduces the Social Security benefit from the separate employment unless he/she qualifies for an exemption. The WEP will not eliminate an individual's Social Security benefit, however. The reduction may be no more than one-half of the state or local government pension to which he/she is entitled.

Rep. Frank's Bill (H.R. 4234)

Mr. Frank has worked over the years on legislation to lessen the impact of the WEP. Although he opposes it, he recognizes that repeal is unlikely because of the high cost. Instead, his legislation would exempt individuals who have a modest level of retirement income from a pension and Social Security.

H.R. 4234, introduced April 28, 2004, is his latest bill. It would make the WEP inapplicable to individuals whose combined Social Security benefit and pension from

non-Social Security covered work is less than \$2,500. H.R. 4234 is the second bill Rep. Frank introduced during this Congress. On May 7, 2003, he sponsored H.R. 2011. H.R. 2011 is similar to H.R. 4234, except that it sets a \$2,000 cap for WEP exemption. The higher cap under H.R. 4234 would allow more individuals to avoid the WEP reduction.

Rep. Shaw's Proposal (Not yet Introduced)

Mr. Shaw's proposal would replace the WEP with a new methodology for calculating the Social Security benefit of an individual with both a pension from non-Social Security covered work and a Social Security benefit from a separate job. Entitled the Public Servant Retirement Protection Act (PSRPA), the proposal would eliminate the WEP and adopt a calculation based on an individual's actual earnings during his/her years of work. Specifically, the PSRPA calculation treats the individual's earnings as if they were subject to Social Security taxes and applies the standard benefit formula. To ensure the individual's Social Security benefit is based only on Social Security earnings, the benefit would be multiplied by the percent of earnings subject to Social Security taxes.

It is unclear who would bear responsibility for collecting the necessary information about the individual's earnings. Also potentially problematic is safeguarding individuals with limited amounts of Social Security covered work. Under current law, the WEP cannot cut the Social Security benefit by more than one-half of the government pension to which such individuals are entitled. The PSRPA does not appear to have such a floor.

Mr. Shaw hopes to introduce his bill very soon. He will then recruit cosponsors and hold a hearing. Final cost estimates will be available shortly after the introduction of the bill.

I've attached three items to this Update: 1) H.R. 4234 by Mr. Frank; 2) a summary of Mr. Shaw's proposal; and 3) a spreadsheet showing the effect of Mr. Shaw's

proposal on different levels of wage earners. Contact me if you have questions or comments ([cmoore@nctr.org](mailto:cmoore@nctr.org) or 703-243-1667).

*P.S. If you are looking for Federal Update 2004-14, please be patient. Part of it needs to be posted on NCTR's website. Once that occurs, I will send it to you.*

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