



SOCIAL SECURITY
Office of the Commissioner

SEP 12 2000

The Honorable J. Dennis Hastert
Speaker of House
United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker,

Enclosed for the consideration of the Congress is the Social Security Administration's (SSA) draft bill intended as an addendum to the draft "Social Security Amendments of 2000," which was sent to the Congress on July 19, 2000. Upon enactment, the enclosed bill would be cited as the "Social Security Amendments of 2000 Addendum."

This proposal would affect direct spending subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. The preliminary estimate of the Office of Management and Budget is that such increases would be negligible.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress.

We urge the Congress to give the draft bill prompt and favorable consideration.

Sincerely,

Kenneth S. Apfel
Commissioner
of Social Security

Enclosures



SOCIAL SECURITY
Office of the Commissioner

SEP 12 2000

The Honorable Albert Gore, Jr.
President of the Senate
United States Senate
S-212 U.S. Capitol Building
Washington, DC 20510

Dear Mr. President,

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Section-By-Section Description
“Social Security Amendments of 2000 Addendum”

Short Title

Section 1 would provide that the Act may be cited as the “Social Security Amendments of 2000 Addendum.”

Waiver of Two-Year Duration of Divorce Requirement in Certain Cases

Section 2 would provide an exception to the 2-year duration of divorce requirement for eligibility as an independently-entitled divorced spouse in cases where the worker has remarried someone other than the ex-spouse who is claiming benefits. Under present law a spouse who had been married to the worker for at least 10 years must be divorced for at least 2 years in order to be eligible for benefits as an independently-entitled divorced spouse. The 2-year duration of divorce requirement was put into the law to prevent “sham” divorces obtained solely to gain eligibility to benefits. However, it can be assumed that if the worker has remarried someone other than the ex-spouse claiming benefits then the divorce was not a “sham” divorce.

The provision would be effective beginning with benefits for the month after the month of enactment.

SSI Treatment of Child Tax Credit

Section 3 would exclude the Child Tax Credit from income in the Supplemental Security Income (SSI) program. The provision also would exclude the tax credit from resources for the 9 months following the month of receipt.

The Child Tax Credit is similar to the Earned Income Tax Credit (EITC) as it reduces tax liability and any excess is refunded. It was designed by Congress to relieve some of the tax burden for those families with children. It was intended as an incentive to low-income workers to continue working and providing for their families. As Congress’ intent in establishing the Child Tax Credit is the same as its intent in establishing the EITC it is reasonable and equitable that both tax credits should be treated the same in the SSI program.

The provision would be effective upon enactment.

SSI Treatment of Individual Development Accounts

Section 4 would exclude from resources, for SSI purposes, contributions and matching funds deposited into, and interest earned on, individual development account (IDAs) authorized under demonstration authority in the Assets for Independence Act (AFIA, sections 404-416 of P.L. 105-285.) Interest earned on these accounts would also be excluded from income.

Changing the income and resource treatment of IDAs will improve low-income individuals' ability to participate in the IDA demonstrations.

This provision would be effective upon enactment.

Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails To Provide Required Accounting

Section 5 would give SSA the authority to redirect Social Security and SSI benefits to field offices (FOs) when the representative payee fails to provide an annual accounting of benefits. (Current due process procedures would remain in place.)

Failure to provide an annual accounting of benefits is a failure to meet one of the responsibilities of a representative payee and may be an indication of the need to appoint a different representative payee. Studies have shown that the nonresponding payee is most often a parent or relative, usually a mother. However, in these cases, changing the representative payee is rarely warranted and is not cost effective. Redirecting benefits to the FO, and notifying the payee of this possibility, provides an extremely effective tool for increasing the number of payees who return the annual accounting form, while providing the FOs with the flexibility to take the most appropriate action in a particular case.

The provision would be effective 6 months after the date of enactment.

Clarification Regarding Coverage Status of Interns and Residents

Section 6 would clarify SSA's long-standing policy that the "student services exclusion" that applies to employment of students enrolled and attending classes by the school, college or university such students, attend, does *not* apply to medical/dental interns or residents in training. SSA's published policy interpretation of the Social Security Act has consistently been that medical/dental interns and residents are not students and that

they are covered under Social Security. However, under the standard set forth in State of Minnesota v. Apfel, the Eighth Circuit Court of Appeals (1998) held that medical residents at the University of Minnesota are excluded from Social Security coverage as students under the student services exclusion. (SSA acquiesced, but only in the Eighth Circuit.)

The provision would provide equitable and consistent treatment of services by interns and residents regardless of whether they are preformed in a university, private, or Federal government hospital, and would avoid a potential loss of benefits for interns and residents and for their families in the event of disability or death.

The provision would be effective for services performed by interns and residents before, on, or after enactment. However, if prior to the date of enactment, the services were held to meet the student exclusion in a court case, the proposal would be effective for services addressed by that court decision which are performed beginning with the month following the month of enactment.

Nonpayment of Benefits Upon Deportation

Section 7 would end the exception for termination of benefits upon the deportation of a worker for smuggling other aliens into the United States.

The provision would be effective with respect to aliens whose deportation/removal is reported by the Immigration and Naturalization Service to SSA after the date of enactment.

A B I L L

To amend the Social Security Act and related laws to make various improvements in the old-age, survivors, and disability insurance program and the supplemental security income program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Social Security Amendments of 2000 Addendum".

(b) Table of Contents.--The table of contents is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Waiver of Two-Year Duration of Divorce Requirement in Certain Cases.

Sec. 3. SSI Treatment of the Child Tax Credit.

Sec. 4. SSI Treatment of Individual Development Accounts.

Sec. 5. Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting.

Sec. 6. Clarification Regarding Coverage Status of Interns and Residents.

Sec. 7. Nonpayment of Benefits upon Deportation.

SEC. 2. WAIVER OF TWO-YEAR DURATION OF DIVORCE REQUIREMENT IN CERTAIN CASES.

(a) In General.--

(1) Divorced wife.--Section 202(b)(5) of the Social Security Act is amended--

(A) in subparagraph (A) (in the matter preceding

clause (i)), by inserting "and subject to subparagraph (C)" after "subparagraph (B)"; and

(B) by adding at the end the following new subparagraph:

"(C) With respect to a divorced wife of an insured individual who, prior to the expiration of the period specified in subparagraph (A) (ii), enters into a marriage with a person other than the divorced wife, the duration of divorce requirement contained in such subparagraph shall be deemed to have been met as of the date the insured enters into such marriage."

(2) Divorced husband.--Section 202(c)(5) of the Social Security Act is amended--

(A) in subparagraph (A) (in the matter preceding clause (i)), by inserting "and subject to subparagraph (C)" after "subparagraph (B)"; and

(B) by adding at the end the following new subparagraph:

"(C) With respect to a divorced husband of an insured individual who, prior to the expiration of the period specified in subparagraph (A) (ii), enters into a marriage with a person other than the divorced husband, the duration of divorce requirement contained in such subparagraph shall be deemed to have been met as of the date the insured enters into such marriage."

(b) Effective Date.--The amendments made by this section shall be effective with respect to months beginning after the

month in which this Act is enacted.

SEC. 3. SSI TREATMENT OF THE CHILD TAX CREDIT.

(a) Exclusion from Income.--Section 1612(b) of the Social Security Act is amended--

- (1) by striking "and" at the end of paragraph (21),
- (2) by striking the period at the end of paragraph (22), and inserting "; and"; and
- (3) by adding at the end the following new paragraph:
"(23) any refund of federal income taxes made to such individual (or such spouse) by reason of section 24(d) of the Internal Revenue Code of 1986 (relating to the child tax credit).".

(b) Exclusion from Resources.--Section 1613(a) of such Act is amended--

- (1) by striking "and" at the end of paragraph (12),
- (2) by striking the period at the end of paragraph (13) and inserting "; and"; and
- (3) by inserting immediately after paragraph (13) the following:
"(14) for nine months following the month in which it is received, any refund of federal income taxes made to such individual (or such spouse) by reason of section 24(d) of the Internal Revenue Code of 1986 (relating to the child tax credit).".

SEC. 4. SSI TREATMENT OF INDIVIDUAL DEVELOPMENT ACCOUNTS.

(a) Exclusion from Income.--Section 1612(b) of the Social

Security Act (as previously amended by section 3(a)) is further amended--

(1) by striking "and" at the end of paragraph (22),

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) any interest accruing on assets in an individual development account established and maintained in accordance with the Assets for Independence Act (Public Law 105-285), section 415 of the Assets for Independence Act notwithstanding, or section 404(h) of this Act."

(b) Exclusion from Resources.--Section 1613(a) of such Act (as previously amended by section 3(b)) is amended--

(1) by striking "and" at the end of paragraph (13),

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by inserting immediately after paragraph (14) the following:

"(15) any funds deposited or interest accruing on those funds, in an individual development account established and maintained in accordance with the Assets for Independence Act (Public Law 105-285), section 415 of the Assets for Independence Act notwithstanding, or section 404(h) of this Act."

SEC. 5. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT
PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE
REQUIRED ACCOUNTING.

(a) OASDI.--Section 205(j)(3) of the Social Security Act is amended--

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting a new subparagraph after subparagraph (D) as follows:

"(E) In any case in which the person to whom payment under this title is made fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the individual entitled to such payment, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the individual resides."

(b) SSI.--Section 1631(a)(2)(C) of such Act is amended by adding at the end the following new clause:

"(v) In any case in which the person to whom payment under this title is made fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the individual entitled to such payment, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the individual resides."

(c) Effective Date.--The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 6. CLARIFICATION REGARDING COVERAGE STATUS OF INTERNS AND RESIDENTS.

(a) In General.--

(1) Social Security Act amendment.--Section 210(a)(10) of such Act is amended by inserting "(other than service as a medical or dental intern or a medical or dental resident in training)" after "(10) service".

(2) Internal Revenue Code of 1986 amendment.--Section 3121(b)(10) of such Code is amended by inserting "(other than service as a medical or dental intern or a medical or dental resident in training)" after "(10) service".

(b) Effective Date.--

(1) Except as provided in paragraph (2), the amendments made by this section apply to service performed before, on, or after the date of the enactment of this Act.

(2) In the case of any individual whose service performed in the States of the Eighth Federal Judicial Circuit as comprised on July 6, 1998, otherwise would be excluded from coverage under title II of the Social Security Act and taxes under the Federal Insurance Contributions Act under the standard set forth in State of Minnesota v. Apfel 151 F.3d 742 (8th Cir. 1998), the amendments made by this section shall apply only to service performed after the month in which this Act is enacted.

SEC. 7. NONPAYMENT OF BENEFITS UPON DEPORTATION.

(a) In General--Paragraphs (1) and (2) of section 202(n) of the Social Security Act are each amended by striking "or 1(E)."

(b) Effective Date--The amendments made by this section shall apply to individuals with respect to whom the Commissioner of Social Security Receives a deportation notice from the Attorney General after the date of the enactment of this Act.