
Deficit Reduction Act of 1984: Provisions Related to the OASDI and SSI Programs*

This article summarizes the provisions of the Deficit Reduction Act of 1984 (Public Law 98-369) that relate to the Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs. With regard to the OASDI program, the new law includes provisions relating to Social Security coverage of employees of the executive and legislative branches of the Government, and a provision allowing churches and church-related organizations to be exempt from Social Security employer taxes. Other OASDI provisions clarify or modify the Social Security Amendments of 1983 (Public Law 98-21). SSI program changes include provisions to increase the countable assets limit, to limit the rate of recovery for overpayments in nonfraud situations, and to waive certain overpayments that result from countable resources exceeding the applicable limits by \$50 or less. The new law also contains amendments based on recommendations by the Grace Commission that will affect the administration of various programs of the Department of Health and Human Services.

On July 18, 1984, President Reagan signed into law H.R. 4170,¹ the Deficit Reduction Act of 1984 (Public Law 98-369). This legislation contains a number of provisions affecting the Old-Age, Survivors, and Disability Insurance (OASDI), Supplemental Security Income (SSI), Medicare, Medicaid, and Aid to Families with Dependent Children programs. This article summarizes those provisions related to the OASDI and SSI programs. A companion article, which begins on page 11 of this issue, summarizes the provisions related to Medicare and Medicaid.

OASDI Provisions

Coverage of Federal employees (section 2601(a)(1) and (b)(1)). Federal employees hired after December 31, 1983, after a break in service of 365 days or less are excluded from Social Security coverage only if their previous Federal job was not covered. Prior law excludes such employees even if their previous job was covered—

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¹H.R. 4170, as contained in the conference committee report adopted by the House of Representatives and the Senate on June 27, included several technical errors that were corrected by H.Con.Res. 328 (adopted by both Houses on June 29) before the bill was sent to the President for his signature. This summary reflects these corrections.

for example, military service. This provision will preserve the Social Security protection of persons who shift from careers in covered Federal employment to careers in previously noncovered employment.

In addition, persons exercising restoration or reemployment rights to noncovered Federal civilian employment after a period of active military service (including time with the National Guard) exceeding 365 days are not covered under Social Security. Also, noncovered Federal employees detailed or transferred to international organizations or separated for the purpose of employment for the American Institute in Taiwan generally continue to be noncovered upon their return to Federal employment even though the break in service exceeded 365 days.

Coverage of legislative employees (section 2601(a)(2),

Editor's Note

In addition to the provisions outlined in this article and the companion report on page 11, the Deficit Reduction Act of 1984 also contained a number of provisions relating to the Aid to Families with Dependent Children program. An article in a forthcoming issue of the **Bulletin** will summarize these changes.

(b)(2), (c), and (d). Legislative branch employees who were participating in the Civil Service Retirement System (CSRS) or another Federal retirement system (other than one for members of the uniformed services) on December 31, 1983, and who receive lump-sum payments from the Federal retirement system after December 31, 1983, or who otherwise cease to be subject to CSRS after that date while performing service in the legislative branch are covered under Social Security. However, a legislative branch employee who would be covered under Social Security as a result of this provision and who received or filed to receive a lump-sum payment before June 15, 1984, from a Federal retirement system or who otherwise ceased to be subject to the CSRS after December 31, 1983, could be excluded from Social Security by joining the CSRS within 30 days of enactment of this provision. A legislative branch employee who is hired after enactment (July 18, 1984) after a break in Federal service of less than 366 days and who otherwise meets these requirements could be excluded from Social Security by joining CSRS within 30 days after being hired.

This provision closes a loophole under which persons who were legislative branch employees on December 31, 1983, could participate in the CSRS on December 31, 1983, and subsequently withdraw, thus avoiding Social Security coverage (and CSRS participation as well). The provision is effective with respect to service performed after December 31, 1983.

Social Security coverage for employees of nonprofit organizations who are required to participate in the Civil Service Retirement System (section 2601(e)). This provision treats an employee of a nonprofit organization who is required by law to participate in a Federal retirement system like a Federal civilian employee for Social Security tax and coverage purposes. Affected employees (for example, employees of the Legal Services Corporation) are not covered under Social Security unless they were hired on or after January 1, 1984, or have a break in service of 366 days or more. Also, affected employees are subject to the Federal Employees Retirement Contribution Temporary Adjustment Act (Public Law 98-168), which affords temporary relief from full contributions to both Social Security and a Federal retirement system. Public Law 98-168 reduces the contribution of affected employees to their Federal retirement systems to 1.3 percent of basic pay.

Effective date of Social Security coverage of Federal employees (section 2601(f)). This provision makes the extension of coverage to Federal employees provided by the 1983 amendments effective with respect to "services performed" after December 31, 1983, rather than with respect to "remuneration paid" after December 31, 1983. Historically, extensions of Social Security coverage have been made with respect to when services are performed, rather than with respect to when remuneration is paid. This provision conforms the date of the

extension of coverage to Federal employees to previous extensions of coverage.

Procedures to prevent overpayments due to failure to report earnings (section 2602). This provision requires SSA to implement procedures to avoid Social Security overpayments that result from an individual's failure to file a correct annual report or estimate of earnings. These procedures may include identifying categories of beneficiaries who are likely to be overpaid and asking that they estimate their earnings or wages more frequently than other beneficiaries subject to deductions under the earnings test. The provision is effective on enactment. This change makes explicit SSA's authority to obtain earnings estimates more frequently than under previous procedures so that benefit amounts may be adjusted earlier on account of excess earnings.

Social Security treatment of church employees (section 2603). This provision permits any church or church-controlled organization (including a convention or association of churches or an elementary or secondary school) to elect irrevocably to have services performed by its employees excluded from employment for Social Security purposes. This election cannot be revoked by the church or organization. The church or organization must state that it is opposed for religious reasons to paying Social Security employer taxes and must make the election before the first date, more than 90 days after enactment, on which a quarterly employment tax return would otherwise be due. The election will apply to services performed after December 31, 1983. Churches and organizations that exercise the election option and that have paid Social Security taxes with respect to services performed after December 31, 1983, may receive a refund of both the employer and employee shares of the taxes if they agree to pay the employee share to the affected employees. The Secretary of the Treasury is directed to permanently revoke an election if a church or organization fails to file information returns about the remuneration paid to the employees for a period of 2 years or more.

Employees of the churches and organizations that make an election will be treated as self-employed persons for Social Security purposes. However, they will be subject to a \$100 per year coverage test (like other employees of nonprofit organizations) instead of a \$400 per year test (like self-employed persons). Also, they will not be permitted to deduct business expenses from their earnings for tax and coverage purposes.

The provision is intended to provide mandatory Social Security coverage for employees of churches and other nonprofit organizations and at the same time allow the religious convictions of certain employing churches to be reflected in the choice not to be subject to the employer tax.

Self-employment income—earnings of commodities and options dealers (section 102(c)). This section pro-

vides that gains and losses derived by commodities and options dealers in the ordinary course of trading in certain futures contracts are to be treated as net earnings (losses) from self-employment for Social Security purposes, regardless of whether such gains and losses qualify for capital gain or loss treatment for income tax purposes. The provision is generally effective with respect to taxable years beginning after the date of enactment.

Definition of resident alien and nonresident alien (section 138). This section sets forth, for taxable years beginning after December 31, 1984, express provisions defining the conditions under which a noncitizen of the United States shall be considered a resident alien or nonresident alien for income tax purposes, including explicit provisions for dealing with changes in residency during a tax year. The provisions, which essentially codify current Treasury Department practice in determining who is a resident or nonresident alien, will obviate the need for individual determinations of residency based on subjective evaluation of evidence of an alien's attachment to the United States. Under the provisions of the Internal Revenue Code for partial taxation of Social Security benefits, beneficiaries who are resident aliens are treated in the same manner as United States citizens, while nonresident alien beneficiaries are, unless a tax treaty provides otherwise, subject to withholding of income taxes from one-half of their benefits at a flat rate of 30 percent.

Wage status of certain fringe benefits (section 531). This section excludes from wages, effective January 1, 1985, fringe benefits provided to or on behalf of an employee if, at the time the benefit is provided, it is reasonable to believe that the employee will be able to exclude the benefit from gross income for income tax purposes under section 117 or section 132 of the Internal Revenue Code (IRC). This provision makes the Social Security treatment of fringe benefits consistent with their income tax treatment.

The amended sections 117 and 132 of the IRC clarify the income tax status of fringe benefits not otherwise specifically addressed by statute by essentially codifying many present practices under which employers have provided their own products and services tax-free to a broad group of employees. Thus, in effect, fringe benefits in the following categories (subject to certain conditions) will be statutorily excluded from wages for Social Security purposes:

- (1) Scholarships, fellowships, and (effective July 1, 1985) qualified tuition reductions.
- (2) No-additional-cost services (for example, free air travel provided to airline employees).
- (3) Qualified employee discounts (for example, merchandise discounts provided to retail store employees).
- (4) Working condition fringes (for example, parking

provided to an employee on or near the employer's business premises).

- (5) *De minimis* fringes (a property or service furnished by the employer that is of such small value that accounting for it would be unreasonable or administratively impracticable).

SSI and Related AFDC Provisions

Increase in dollar limitations under assets test (section 2611). This provision increases the current SSI countable assets limit of \$1,500 for an individual by \$100 each January, beginning in 1985, until it reaches \$2,000 in January 1989. Similarly, the present \$2,250 limit for eligible couples increases by \$150 each year until it reaches \$3,000 in January 1989.

The conference committee report reflects the view that the purpose of allowing SSI recipients to retain a certain amount of assets is to enable them to deal with major emergency costs that cannot be met from their monthly incomes. The report expresses concern, however, that these increased limits will target additional Federal costs on SSI recipients who have accumulated reserves to meet emergencies rather than on those who have not been able to do so. Therefore, the report directs the Secretary of Health and Human Services (HHS) to examine this problem and report findings and recommendations to the Congress by June 1985. The report specifies that "if the Secretary is able to recommend a more appropriate way" to resolve the problem, the scheduled increases in the assets limits after 1985 should be replaced by "a more targeted approach."

Limitation on recoupment rate in case of overpayments (section 2612). This provision specifies that the rate at which SSI overpayments may generally be recovered from a recipient's monthly SSI payment will be the lesser of (1) the recipient's entire monthly payment or (2) an amount equal to 10 percent of the recipient's countable income plus Federal SSI payments and State supplementary payments. However, overpaid recipients may negotiate a faster or slower recoupment rate. This provision does not apply to those cases where the individual or eligible spouse committed fraud or willfully misrepresented or concealed material information in connection with the SSI overpayment. The provision takes effect on October 1, 1984.

With regard to future overpayment notices to recipients, the conference report states that the intent is "that the notice sent to claimants shall clearly indicate that a 10 percent rate of withholding is the norm and that the beneficiary may agree to a faster rate of repayment, but the conference managers direct that such information not be presented in a manner which would lead recipients to believe that faster repayment is expected or required."

Treatment of overpayments when recipient's countable assets exceed limits in certain cases (section 2613).

This section provides for waiving recovery of an overpayment that is attributable solely to excess resources if the amount of the excess is \$50 or less, unless the overpaid individual knowingly and willfully failed to report the value of his resources accurately and in a timely manner. The provision, effective October 1, 1984, modifies prior provisions, under which a relatively small amount of excess resources could cause overpayments that are greatly out of proportion to the amount by which the person's resources exceeded the limit.

The conference report indicates that this waiver provision will be applied the first time a recipient is found to have exceeded the resource limit. The conference report also notes that the provision of present law relating to waiver of overpayments in the case of individuals who are without fault should adequately cover cases where the value of excess resources is more than \$50 and it would be inappropriate to recover the full amount of the overpayment. The report directs the Secretary of HHS to review the applicable regulations and procedures to assure that a "realistic assessment of the culpability of individuals is made."

Exclusion of retroactive payments from resources (section 2614). This provision excludes retroactive SSI or OASDI payments from resources during the first 6 months following the month in which such payments are received. Under prior operating instructions, retroactive SSI (but not OASDI) payments were not considered resources for up to 3 months following the month of receipt. The amendment allows the recipient time to repay debts incurred during the months that benefits were not paid or were paid in an amount less than the amount due. The provision is effective October 1, 1984.

Adjustment of SSI payments on account of retroactive OASDI benefits (section 2615). This provision expands the windfall offset provision in section 1127 of the Act to eliminate loopholes that permit persons who are paid OASDI and SSI retroactively to receive more in total benefits for the same period than if they were paid the benefits when they were regularly due. Adjustment of retroactive benefits is required in the following three additional situations.

First, the amendment requires reductions of retroactive SSI payments in cases where retroactive OASDI benefits for the same period have been paid before the SSI payments. In these cases, the retroactive SSI payments will be reduced by the amount of SSI payments that would not have been payable had the OASDI benefits been paid when regularly due rather than retroactively. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the SSI had been paid first.

Second, OASDI benefits or SSI payments that are payable retroactively upon reinstatement following a period of suspension or termination are reduced by the amount of SSI payments that would not have been paid,

or would not be paid, had the retroactive OASDI benefits been paid in the months they were regularly due. Prior law did not provide for offset in reinstatement cases.

Third, the amendment integrates the windfall offset with the requirements of retrospective monthly accounting. Under retrospective accounting, SSI payments are generally based on income received in the second preceding month. The interaction of the windfall offset provision and the subsequently enacted retrospective monthly accounting provision has resulted in 2 months' payments escaping offset. This effect was unintended and the amendment corrects the deficiency.

The changes are applicable to retroactive benefits (either OASDI or SSI) payable beginning with the seventh month following the month of enactment. However, certain retroactive OASDI benefits that result from events other than initial applications or reinstatements—for example, earnings recomputations—will not be subject to offset until the Secretary of HHS determines that such adjustments are administratively feasible.

Exclusion from income of certain Alaska bonus payments (section 2616). This provision modifies the exclusion from income of Alaska longevity bonuses that was enacted in 1975. Because of an Alaska State Supreme Court decision in April 1984, Alaska revised its longevity bonus program in such a way that the bonuses might no longer have been excludable. Effective on enactment, this provision allows the continued exclusion of the bonuses for anyone to whom the exclusion has applied before the State's revision of the bonus program. This provision also allows the exclusion of the bonuses for persons who become eligible for SSI and for Alaska longevity bonuses before October 1, 1985, and who met the 25-year residence requirement of the bonus program as in effect prior to 1983. The provision is intended to avoid eliminating the exclusion for persons who have benefited from it or who may have been anticipating the exclusion's availability.

Federally assisted pilot projects to demonstrate one-stop service delivery systems (section 2630). This provision allows States to develop 3-year demonstration projects that would provide one-stop service delivery for persons who want to apply for SSI, Aid to Families with Dependent Children (AFDC), Food Stamps, or any other Federal or federally assisted program (other than a program under the Rehabilitation Act of 1973) that is needs-based or is intended to help in emergencies. The Secretary or heads of other agencies will waive provisions of law if the waivers are necessary to demonstrate effectiveness of the delivery system and if the waiver authority is otherwise available to the Secretary or agency head. At least three and no more than five projects, one of which must be statewide, can be authorized by the Secretary, but none will be approved if it would lower or

delay benefits or services. The provision is effective October 1, 1984.

This provision is intended to provide for the testing of alternative delivery systems that simplify program participation and administration. The conference report clearly states, however, that the projects are not intended to permit participating States to assume SSA responsibilities for accepting applications, making eligibility determinations, or paying benefits under the SSI program. However, State SSI activities could include providing outreach and referrals, coordinating services, and other ancillary services that are not directly part of the SSI claims taking and adjudication process.

Three-year extension of provisions for disregarding certain home energy assistance and in-kind support and maintenance (section 2639). This provision continues, until October 1, 1987, the exclusion from income under the SSI program and, at States' option, under AFDC plans, of home energy assistance (in cash or kind) provided by certain home energy suppliers and in-kind support and maintenance (including home energy assistance) provided by private nonprofit organizations. Under previous law, the exclusions would have expired in part on September 30, 1984, and in part on June 30, 1985. The provision is effective October 1, 1984.

Provisions Reflecting Grace Commission Recommendations

Income and eligibility verification procedures (section 2651). This provision requires the Internal Revenue Service (IRS) to make data on unearned income available to Federal, State, and local agencies administering means-tested Federal or federally assisted benefit programs, effective on enactment. It also requires those agencies to request wage, income, and other data from IRS and SSA for use in verifying eligibility for and the amount of benefits. These data cannot be used to reduce, suspend, terminate, or deny benefits until the information is verified. The provision also requires State agencies to exchange information with each other and with HHS for use in administering benefit programs. Information disclosed under these provisions will be subject to safeguards established by the Departments of HHS, Treasury, Agriculture, and Labor. The provision is effective with respect to Federal SSI and federally administered State supplements and otherwise not sooner than April 1, 1985, nor later than September 30, 1986.

Collection and deposit of payments to executive agencies (section 2652). This provision authorizes the Secretary of the Treasury to prescribe various accelerated mechanisms—for example, the electronic transfer of funds—to be employed by Federal agencies to collect nontax debts. Also, it authorizes the Secretary to prescribe the time frames for deposit of funds for credit in

Treasury's account. It requires the Treasury Department to issue regulations to achieve full implementation of the collection and accelerated deposit system by October 1, 1986. It generally reduces from 30 days to 3 days the statutory period for timely deposit by custodian agencies, effective January 1, 1985. This provision is designed to eliminate delays in collecting and depositing money with the Treasury that result from the use of nonaccelerated systems to clear check payments through Government agencies before crediting the funds to the Treasury.

Collection of non-tax debts owed to Federal agencies (section 2653). This provision authorizes IRS to collect nontax debts, including SSI overpayments, owed to Federal agencies by reducing Federal tax refunds (after offset for any past-due child support payments). This provision grew out of the Grace Commission's recommendation that the Government collect nontax debts, including SSI and OASDI overpayments, owed to Federal agencies from any Federal tax refund due the individual. However, beneficiary debts resulting from OASDI overpayments are specifically excluded from the new collection procedure. The new law also provides that child support obligations in the case of families receiving AFDC will be subject to offset before other Federal debts. Another feature of this provision is that IRS actions that result in the reduction of tax refunds cannot be appealed either administratively or in the courts.

To use this provision, Federal agencies must enter into an agreement with the Secretary of the Treasury relative to the transmission of certified debt information. Federal agencies must certify to the Secretary of the Treasury that (1) attempts to notify the debtor have been made, (2) the debtor does not dispute the debt, (3) the debtor has not begun to repay the debt, and (4) the debtor exhibits no reasonable intention to repay the debt. A Federal agency that refers a debt to IRS must reimburse the Secretary of the Treasury for the full cost of applying the collection procedure. This provision applies to tax refunds payable after December 31, 1985, and before January 1, 1988. This 24-month period is intended to provide an opportunity for the Congress to evaluate the program.

Technical Corrections

The Deficit Reduction Act of 1984 contained a number of technical corrections necessitated by the Social Security Amendments of 1983. The more substantive of these OASDI provisions are described in this section.

Foreign work test (section 2661(g)(1)). This change provides for withholding an auxiliary's benefit for each month in which the worker is under age 70 and works for more than 45 hours in noncovered remunerative ac-

tivity outside the United States. The provision, effective for September 1984, corrects a technical error in the Social Security Amendments of 1983. The 1983 amendments changed the foreign work test from 7 days to 45 hours in the case of withholding retirement, auxiliary, or survivor benefits due to work performed by the beneficiary outside the United States. However, the 7-day test continued to apply with regard to withholding an auxiliary's benefit due to work by the worker.

Retirement age for earnings test purposes (section 2661(g)(2)). This provision corrects a technical deficiency in the Social Security Amendments of 1983 that relates to the meaning of "retirement age" for purposes of the earnings test provisions concerning (1) the higher exempt amount, (2) the 1-for-3 withholding rate beginning in 1990, and (3) the exclusion of royalties from a copyright or patent obtained before the taxable year in which a person attains retirement age. This provision clarifies that, for these purposes, retirement age means the age of eligibility for a worker's unreduced old-age benefit. The provision is effective as if enacted on April 20, 1983, as part of the 1983 amendments.

Without this change, references to "retirement age" were unclear as to the applicability of these earnings test provisions in the case of persons entitled to (1) parent's benefits (who were not included in the definition of retirement age), and (2) widow(er)'s benefits, for whom the "retirement age" will not be the same as for workers and spouses when the retirement ages increase in the next century.

Wage status of payments under employer pickup plans (section 2661(i)). This provision corrects a technical drafting error in the 1983 amendments that resulted in certain employer payments of employee contributions to a State or local government retirement system under an employer pickup plan (as referred to in section 414(h)(2) of the Internal Revenue Code) being unintentionally treated as wages beginning January 1, 1984. This provision, which is retroactive to January 1, 1984, continues the wage exclusion in effect before the 1983 amendments with respect to payments under employer pickup plans not made pursuant to salary reduction agreements. The conference committee report states the intent that "the term salary reduction agreement also includes any salary reduction arrangement, regardless of whether there is approval or choice of participation by individual employees or whether such approval or choice is mandated by State statute."

Modification of windfall provision (section 2661(k)(1) and (3)). Section 2661(k)(1) clarifies the definition of the group affected by the windfall benefit formula so as not to exclude certain individuals eligible for disability benefits before 1986. As drafted in the 1983 amendments, the modified formula applicable in windfall cases would not have applied to workers becoming eligible for disability benefits after 1985 if they

had been previously eligible for disability benefits before 1986.

Section 2661(k)(3) modifies the way benefits are re-computed under the windfall provision so that the windfall reduction formula continues to apply to earnings for individuals who work after becoming entitled. As drafted in the 1983 amendments, earnings after the year a worker reached age 61 raise benefits more if the worker was entitled in that year. This could result in different primary insurance amounts for similar workers becoming entitled in different years.

Modification of stabilizer provision (section 2661(k)(4) and (5)). Section 2661(k)(4) provides for rounding down to the lower dime benefit amounts increased under the "catchup" provision that brings benefits up to the level they would have reached if all previous automatic benefit adjustments were calculated on the basis of increases in the Consumer Price Index instead of increases in average wages. This rounding rule was omitted in the 1983 amendments.

Section 2661(k)(5) makes a number of technical changes to the stabilizer provision. These changes (1) clearly describe the catchup increase as a percentage, (2) specify that catchup increases will be based on the period of years preceding the year of the catchup increase, and (3) specify that the calculation of the catchup percentage is to be based on the year of eligibility for the benefit on which the catchup increase is to be paid.

As drafted in the 1983 amendments, the provision could be interpreted as basing the calculation of the catchup increase on a period of years including the year of the catchup itself, rather than on the period ending with the year before the catchup, as was intended. In addition, the provision could be interpreted to allow a much higher catchup increase than intended when, for example, a person was not continuously entitled to benefits from a year that benefits were increased based on the lower average wage increase through the year of the catchup increase. These amendments are effective as if they had been included in the 1983 amendments.

Definition of divorced husband (section 2661(l)). This provision amends the definition of divorced husband to deem him not to be married throughout the month in which his divorce occurs. This change conforms the statute with current practice and with the statutory definition of divorced wife. This change is effective as though it had been included in the 1983 amendments.

Delay final adjustment of Treasury payment for 1983 deemed military service wage credits (section 2661(n)). This section provides for a delay in the final adjustment of the estimated amount previously transferred to the Social Security trust funds from the general fund that was based on deemed military service wage credits for 1983. The 1983 amendments changed the financing of deemed military service wage credits and

provided for the transfer of lump sums from the general fund to the trust funds. This provision corrects a technical defect in the 1983 amendments that prevented accurate adjustment of the amounts to be paid into the trust funds for deemed military service wage credits because the 1983 wage information needed to make the final adjustment would not be available until after the time specified in the law to make the adjustment.

Authority of Internal Revenue Service to levy against Social Security benefits (section 2661(o)(5)). This provision clarifies authority in the Internal Revenue Code to levy against Social Security benefits for the collection of unpaid Federal taxes. The provision is effective as if enacted on April 20, 1983, as part of the 1983 amendments.

Before the 1983 amendments, the Code allowed the Internal Revenue Service to levy against Social Security benefits. However, this authority was inadvertently nullified by a provision in the 1983 amendments that no other law could supersede the provision in the Social Security Act that prohibits assigning benefits or subjecting them to levy, attachment, garnishment, or any bankruptcy or insolvency law, unless the other law does so by express reference to the Social Security Act provision.

Effective date of independent entitlement for divorced husbands provision (section 2662(d)). This provision eliminates a gender-based distinction created by the 1983 amendments by providing that both divorced men and women can become entitled to spouse's benefits after December 1984 without regard to the entitlement of their former spouse. The 1983 amendments inadvertently included a May 1983 effective date for benefits for divorced men. The correction is effective as though included in the 1983 amendments.

Wage status of certain nonqualified deferred compensation (section 2662(f)(2)). This section makes two changes to section 324(d)(2) of the Social Security Amendments of 1983 pertaining to the wage status of nonqualified deferred compensation. This provision stipulates that an employer may treat certain amounts paid after 1983 for services performed before 1984 as wages for Social Security contribution purposes either when paid or as if they were paid in 1983. These amounts must have been paid under a nonqualified deferred compensation arrangement entered into between March 24, 1983 (the date governing the grandfather rule) and January 1, 1984.

Also, the provision extends the grandfather rule in the 1983 amendments to agreements between the employer and the employee in existence on March 24, 1983, if the agreement provided for payments upon retirement that would have been excluded from wages under pre-1983 amendment law. This results in the continued application to these payments of certain wage exclusions that were eliminated by the 1983 amendments (generally those pertaining to payments on account of retirement

and certain payments made upon or after retirement).

Codification of Rowan decision (section 2662(g)). This provision clarifies the wage status of certain tax-sheltered payments (annuities) made before 1984 by changing the effective date of the provision enacted as part of the 1983 amendments that provided that the fact that the payments were not taxable for income tax purposes did not imply that the payments were also not taxable for Social Security purposes. This provision changes the effective date to make it applicable to remuneration paid after March 4, 1983 (instead of after December 31, 1983) and to remuneration paid on or before March 4, 1983, that the employer treated as wages when it was paid.

The purpose of this provision is to limit Social Security tax refund claims based on the argument that the 1984 effective date of the decoupling of income tax from Social Security tax treatment implies that payments made before 1984 that were excluded from income taxes were not wages for Social Security tax purposes. This provision clarifies congressional intent that such payments should not be removed from an individual's earnings record and that Social Security tax refunds should not be made if the employer reported the payments as wages for Social Security purposes.

Eliminate gender-based distinction concerning the penalty for fraud (section 2663(e)(3)). This section provides the same penalty for fraud regardless of sex when an individual makes a false representation with the intent to elicit information from the Secretary of Health and Human Services as to the date of birth, employment, wages, or benefits of any individual. Under prior law, a "former wife divorced" (an obsolete term) was subject to a penalty for fraud and there was no reference to a divorced husband. This provision, effective upon enactment, updates an out-of-date provision and eliminates the gender-based distinction.

Miscellaneous Provisions

Cost savings report by the President (section 2903). This provision requires the President to review and report on all recommendations for management improvement and cost-control opportunities, including those made by congressional committees, executive and legislative branch agencies, educational and research organizations, and public and private bodies, task forces, councils, panels, and study groups. The report must be submitted with the President's Budget in January 1985, and must include a list of the recommendations reviewed, their source, the actions the President has taken or proposes to take, and the amount of cost savings expected to result from their implementation in fiscal years 1985, 1986, and 1987. The conference report includes a statement of the conferees expressing their

expectation that the President's report will specifically address, affirmatively or negatively, all recommendations included in every study reviewed.

Cost savings review by committee (section 2904). This provision requires the responsible congressional authorizing committees to review the report required of the President under section 2903 and, by March 15, 1985, to submit their recommendations to the House and Senate budget committees. The committees' recommendations are to be included in the reports they are required to submit under the Congressional Budget and Impoundment Control Act of 1974.

Analyses of budget assumptions by CBO (section 2905). This provision requires the Director of the Congressional Budget Office (CBO) to study and report on reasons for differences in projected and actual budget figures, identify systematic biases in estimates, and examine alternative forecasting methods used by executive departments and agencies in preparing and submitting budget estimates to the Congress.

It also requires CBO, in consultation with the General Accounting Office, to conduct a trial review of the budget estimates prepared by the Department of Defense and one unspecified civilian agency to determine (1) whether there is a systematic underestimation of the costs required to carry out the policies, programs, and projects proposed; and (2) what effects any systematic costing errors may have on the long-run costs of programs, the mix of programs implemented, and program effectiveness in meeting agency missions and goals.

Formula approach to Federal budgeting (CBO/OMB studies) (section 2906). This provision requires the CBO Director and the Director of the Office of Management and Budget, in consultation with the Chairmen and ranking members of the House and Senate budget committees, to study the administrative feasibility and potential effectiveness and fairness of applying alternative formula approaches to the entire Federal budget and to report by December 31, 1984. These studies may include, but need not be limited to, formulas based on (1) historical spending trends, (2) equal percentage growth/reduction rates across the board, (3) different percentage growth/reduction rates for major budget categories, and (4) the growth of the Gross National Product.

Study of alternative income tax systems (section 1081). This section requires the Secretary of the Treasury to study and to report to the Congress no later than December 31, 1984, his findings concerning the advisability of replacing either the Federal individual income tax, or both this tax and the Federal corporate income tax, with an alternative tax system. For purposes of the study, "alternative tax systems" include systems based on a simplified income tax based on gross income, a consumption or consumption-based tax, or the broadening of the base and the lowering of the rates of the current income tax. The study is required to cover a number of topics including the possible exclusion of "certain items, such as Social Security benefits, from gross income."