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## **Q. Can you explain the Government Pension Offset provision that reduces Social Security benefits?**

If your township uses the public retirement system exception provided by Internal Revenue Code Section 3121 to exclude your employment from Social Security coverage, and upon retirement you are eligible to receive a spouse's benefit due to his or her employment covered by Social Security, your spousal benefits will be reduced by the Government Pension Offset.

This reduction was enacted by Congress to put government workers on the same level as private sector employees, whose spousal Social Security benefits are "offset" by the spouse's benefits earned from his or her employment. When the Social Security system was created, spousal benefits were designed to provide non-working spouses with Social Security coverage. As more women entered the workforce and earned their own Social Security coverage, a calculation was made by Social Security Administration (SSA) to reduce the spousal benefit by the benefits earned directly by the spouse. The Government Pension Offset provision was put in place to keep government workers whose employment is not covered by Social Security taxes from receiving full spousal benefits without such an offset.

## **Q. How is the offset calculated?**

Your spousal benefits, if any, will be reduced by two-thirds of your township pension. If you receive a monthly pension benefit, your monthly Social Security benefit will be reduced by two-thirds of your monthly pension. If you receive a lump sum, your monthly Social Security benefit will still be reduced by an equivalent annuity amount calculated by SSA (as if your lump sum had been paid monthly).

## **Q. Does this apply to all township employees?**

No. This does not effect employees whose employment was covered by Social Security either on their last day of employment and their last date of employment was prior to

July 1, 2004, or during the last five years of employment and their last date of employment was July 1, 2004, or later. (Certain transitional rules may apply to retirees whose last date of employment fell between July 1, 2004, and March 2, 2009.)

## **Q. If I work in the private sector in addition to my township employment, can my private sector Social Security benefits be reduced as well?**

Possibly. Assuming that your township employment was not covered by Social Security, there may be reduced benefits caused by the Windfall Elimination Provision. This provision was enacted by Congress to eliminate the increase in calculated benefits to employees who worked both in covered and non-covered (by Social Security) employment. The Social Security Act contains provisions to pay long-term lower-earning workers a higher benefit as a percentage to their earnings to provide a better monthly income to less advantaged Americans. Governmental employees were also receiving this bump in their benefits—because the non-covered employment and resulting pensions were not previously considered by the SSA.

## **Q. We understand that notification requirements are in place for employees not covered by Social Security. Can you explain?**

Yes. The Social Security Protection Act of 2004, which became Public Law 108-203, includes a mandate that all state and local government entities hiring an individual, on or after Jan. 1, 2005, for a non-Social Security covered position must provide him or her with a written notice explaining the effect of non-Social Security covered work on any separate Social Security covered work by the individual—i.e., the benefit from the Social Security covered work might be reduced. The SSA has a sample notice, as well as additional information on this requirement, at [www.socialsecurity.gov/form1945/](http://www.socialsecurity.gov/form1945/).

The individual must sign the notice before he or she begins the position. The township must then submit the notice to the relevant retirement system "established by the governmental entity involved [which is] responsible for paying the monthly periodic payments or benefits." (Section 419 of PL 108-203)

This requirement affects all townships without 218 agreements, whose employees have pensions that are Social Security equivalent—and therefore do not pay Social Security, and those townships that have 218 agreements and have excluded classes of employees from Social Security coverage, and have a pension plan that meets the aforementioned requirements.

*Information provided in Financial Forum should not be considered legal advice, and readers are encouraged to contact their township auditor and/or attorney for advice specific to their situation.*

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