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***Employment Law Forum***

**Social Security – Baby Boomer Basics**

On August 14, 1935 the Social Security Act (Act) was enacted to establish a system of federal old-age benefits. The Act was subsequently amended to provide survivors (1939), disability (1956), and Medicare (1965) benefits to qualifying individuals.

Social Security affects everyone, directly or indirectly. Virtually every working American (98%) pays Social Security taxes. One in six Americans receives monthly Social Security benefits. Nevertheless, Social Security is probably one of the least understood programs in the country.

An individual generally begins to develop more than a passing interest in Social Security as retirement nears. Many questions arise concerning eligibility, when to begin receiving benefits, the impact on benefits on income when working after retirement, pension offsets for workers receiving government pensions, eligibility for Medicare benefits when reaching age 65, and related issues. It is recommended that an individual within six months of eligibility for benefits contact the nearest Social Security website or local office with respect to the impact.<sup>1</sup>

The information provided herein is presented in a question and answer format and is designed to provide an overview of issues related to *pension benefits*. *Disability and survivors' benefits are not addressed*. It is recommended that the individual with a specific interest in an area covered conduct further research and/or inquiry through the Social Security website or local office. The Social Security Administration has many different handbooks and brochures providing detailed information on the subjects covered.

*Question:* An individual is required to have 40 quarters to be eligible to receive retirement benefits. What is a “quarter”?

*Answer:* A “quarter,” also known as a “credit,” is earned by working and contributing to Social Security. For 2011, an individual receives a credit when earning \$1,120.00 of wages subject to Social Security taxes during a quarter (three month period). An

individual may earn up to four credits per year. The dollar figure rises each year to reflect the increase in average wages.<sup>2</sup>

*Note: “Quarters” are referred to as “credits” for the remainder of this article.*

*Question:* I have 37 credits of Social Security coverage. I am going to receive a government retirement pension and I am not dependent on Social Security. Is there any benefit for me to earn three additional credits.

*Answer:* Yes. By qualifying for Social Security you become eligible for pension, disability, and Medicare benefits. If married, your spouse may become eligible for a spousal pension benefit equal to 50% of your benefit. Additionally, your spouse and dependent children may become eligible for a survivor’s benefit if you should pass away.

*Question:* If I do not qualify for Social Security, am I eligible for Medicare benefits?

*Answer:* Yes. However, there is a monthly Medicare premium.

Medicare insurance includes Part A (hospital insurance) and Part B (medical insurance). The monthly premium for Part A is determined by the number of Medicare covered quarters that an individual has credited. The premium is \$248.00 monthly during 2012 for people having 30 – 39 quarters, and \$451.00 monthly for individuals with less than 30 quarters. Most people do not pay a Part A premium because they or a spouse have 40 or more quarters paying Medicare taxes. The 2012 premium for Part B is \$99.90 per month and applies to most individuals.

*Question:* What is a “fully insured individual” as referred to in the Social Security Act?

*Answer:* An individual with 40 credits of coverage.<sup>3</sup>

*Question:* What is the benefit of Social Security coverage with respect to Medicare eligibility?

*Answer:* Medicare coverage begins at age 65 and is divided into two parts. Part A is hospital insurance. Part B is medical insurance. If you qualify for Social Security, you don’t have to pay a premium for Part A. If you don’t qualify you can still participate in Medicare Part A by paying a monthly premium. Part B is optional coverage and a premium is charged to all that enroll. An individual’s monthly premium will increase for every 12 months after eligibility (age 65) that they do not enroll in Part B.<sup>4</sup>

*Question:* What is a spousal benefit?

*Answer:* If you are receiving a Social Security pension benefit, your spouse will be eligible at full retirement age to receive a benefit equal to one-half of your benefit even if he or she has never worked under Social Security. Your spouse may begin collecting the benefits as early as age 62, but the amount will be permanently reduced by a percentage based on the number of months receiving the benefit prior to his or her full retirement age.<sup>5</sup>

*Question:* What is the “full retirement age?”

*Answer:* The full retirement age is when an individual receives the full pension benefit (100%) and depends on an individual’s date of birth as outlined in the table that follows:

<b><u>Year of Birth</u></b>	<b><u>Full Retirement Age</u></b>
1937 (or earlier)	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960	67 <sup>6</sup>

*Question:* My spouse will receive a retirement benefit through her local government employer. She has not contributed to Social Security. Will her governmental retirement benefit have any impact on the spousal Social Security benefit?

*Answer:* It may. Some or all of your spouse’s Social Security benefit may be offset if she receives a pension from a job where she did not pay Social Security taxes.

*Question:* How much is the Social Security offset resulting from my wife’s governmental pension?

*Answer:* The offset will reduce the amount of your spouse’s Social Security benefit by two-thirds of the amount of her government pension. For example, if her governmental

pension is \$900 monthly, two-thirds of that, or \$600.00, must be used to offset the Social Security spousal benefit. If she were eligible for a \$700.00 spousal benefit, it would be reduced to \$100.00 because of the offset ( $\$700 - \$600 = \$100$ ).<sup>7</sup>

There are several exemptions to the offset provisions. If you are impacted by an offset, it is recommended that you contact your local Social Security office.

*Question:* When do Social Security pension benefits become available?

*Answer:* An individual with 40 credits is eligible to begin receiving Social Security pension benefits at age 62.<sup>8</sup>

*Question:* What is the difference in Social Security pension benefits if I begin to receive them prior to my full retirement age?

*Answer:* If you begin receiving pension benefits at age 62, as a rule of thumb you will be ahead in your pension benefits for the first 15 years (until age 77). The table that follows provides a comparison of benefits received by retirement age for a person born during the years 1943 to 1954 and eligible for a full Social Security pension benefit (age 66 for persons born between 1943 and 1954) of \$1,000 per month:

<u>Age at Retirement</u>	<u>Percentage of Benefit @ Full Retirement Age</u>	<u>Pension Benefit</u>
62	73.33%	\$ 733.33
63	80	800.00
64	87.67	876.70
65	93.33	933.30
66	100	1,000.00

The reduction equals approximately 5/9 of one percent (.555) for each month of receipt prior to the full retirement age.<sup>9</sup>

*Question:* Does a person get the most out of Social Security by claiming benefits at age 62 or by waiting for the “full retirement age?”

*Answer:* On the average, it doesn’t matter. People who live the average life expectancy get roughly the same lifetime benefits whether they retire at age 62 or wait. Social Security is designed to treat early retirees the same as people who wait until the “full retirement age.”

*Question:* I am receiving a pension from a government employer. Will my pension be affected when I elect to also receive a Social Security pension?

*Answer:* It may, depending on the public sector retirement system. For example, the City of Sacramento, California, has an independent retirement system for persons employed prior to 1976.<sup>10</sup> Employees retiring under the independent system have their retirement pension reduced in accordance to a formula when first eligible for Social Security benefits at age 62, even if the individual delays receipt of the Social Security pension benefit.<sup>11</sup>

The California Public Employees' Retirement System (CalPERS) also has a formula for members participating in Social Security. However, the method used by CalPERS reduces the individual's final compensation that is used to determine the retirement benefit for local government employees by \$133.33 and state employees by \$513.00. The final compensation is reduced because the employee did not make retirement contributions on the first \$133.33 or \$513.00 of salary when actively employed.<sup>12</sup> As a result there is no offset when an individual becomes eligible for Social Security benefits.

If you qualify for a local government retirement benefit and made contributions to both a governmental retirement program and Social Security, it is recommended that you contact your previous employer(s) to determine if there is any type of Social Security offset.

*Question:* Will the retirement pension from my job reduce the amount of my Social Security benefit?

*Answer:* If your pension is from work where you also paid Social Security taxes, it will not affect your Social Security benefit. However, pensions based on work that is not covered by Social Security (for example, the federal civil service and some state and local government systems) probably will reduce the amount of your Social Security benefit. For further information, see the *Windfall Elimination Provision* and *Government Pension Offset* at <http://www.ssa.gov/>

*Question:* I am 62 years of age and eligible to receive a Social Security pension benefit. However, I continue to be actively employed. If I elect to receive a Social Security pension benefit will it be affected by my earnings from employment?

*Answer:* It may. Your Social Security pension benefit will be reduced if your earnings exceed certain limits for the months before you reach your full retirement age.<sup>13</sup> When you reach full retirement age your earnings are exempt from any reduction in the amount of your pension benefit. However, prior to reaching full retirement age, the following rules apply:

- (1) If you are under full retirement age, \$1.00 in benefits will be deducted for each \$2.00 in earnings above the annual limit which is \$14,160 for 2011 (adjusted annually).
- (2) In the year you reach your full retirement age, your Social Security pension benefit will be reduced \$1.00 for every \$3.00 you earn above a different annual limit of \$37,680 for 2011 (adjusted annually) until the month you reach full retirement age.
- (3) When you reach full retirement age, your Social Security pension benefits will be increased to take into account those months in which you received no benefit or reduced benefits because of your earnings. The increased benefit equals approximately 5/9 of one percent (.555%) for each month that you did not receive a Social Security pension benefit because your earnings were too high.

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<sup>1</sup> [www.socialsecurity.gov](http://www.socialsecurity.gov)

<sup>2</sup> 42 U.S.C. 413(a).

<sup>3</sup> 42 U.S.C. 414(a)(2).

<sup>4</sup> 42 U.S.C. 426 *et seq.*

<sup>5</sup> 42 U.S.C. 402(b)(c).

<sup>6</sup> 42 U.S.C. 416 (1)(1).

<sup>7</sup> 42 U.S.C. 402(b)(4)(A); 42 U.S.C. 402(c)(2)(A).

<sup>8</sup> 42 U.S.C. 402(a)(1)(2)(3).

<sup>9</sup> 42 U.S.C. 402(q)(1)(A).

<sup>10</sup> Sacramento City Charter Section 399.

<sup>11</sup> Sacramento City Code Section 2.124.1810.

<sup>12</sup> Cal. Government Code Sections 20555(b); 20677(b)(1).

<sup>13</sup> 42 U.S.C. 403 *et seq.*