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Social Security: Taxation of Benefits

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Summary

Social Security provides monthly cash benefits to retired or disabled workers and their family members and to the family members of deceased workers. Those benefits were initially exempt from federal income tax, but in 1983, Congress approved recommendations from the National Commission on Social Security Reform (also known as the Greenspan Commission) as part of the Social Security Amendments of 1983 to tax the benefits of some higher-income Social Security beneficiaries. In the congressional debate leading to the Social Security Amendments of 1983 and the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993), the committee reports noted a desire to treat Social Security benefits more like private pension benefits, where benefits are subject to income tax except for the portion attributable to the individual's own contributions to the system (on which the individual had already paid income tax).

Beginning in 1984, up to 50% of Social Security and Railroad Retirement Tier I benefits became taxable for individuals whose provisional income exceeds $25,000 and couples whose provisional income exceeds $32,000. Provisional income equals adjusted gross income (total income from all sources recognized for tax purposes) plus certain otherwise tax-exempt income, including half of Social Security and Railroad Retirement Tier I benefits. The proceeds from taxing this portion of Social Security and Railroad Retirement Tier I benefits are credited to the Old-Age and Survivors Insurance (OASI) trust fund, the Disability Insurance (DI) trust fund, and the Railroad Retirement system, respectively, based on the source of the benefit taxed.

OBRA 1993 increased the taxable share of Social Security and Railroad Retirement Tier I benefits for some beneficiaries. That law taxes up to 85% of benefits for individuals whose provisional income exceeds $34,000 and for married couples whose provisional income exceeds $44,000. The additional proceeds from that law are credited to the Medicare Hospital Insurance (HI) trust fund.

The Congressional Budget Office (CBO) estimated that 49% of Social Security beneficiaries were affected by the income taxation of Social Security benefits in tax year 2014. That share is expected to grow over time because the income thresholds used to determine the taxable share of benefits are not indexed for inflation or wage growth. A Social Security Administration analysis projected that over 56% of Social Security beneficiary families will owe income tax on their Social Security benefits in 2050. Among those who owe income tax on their Social Security benefits, the tax liability increases with income.

In 2018, the Social Security trust funds were credited with $35.0 billion in revenue from taxation of benefits, accounting for 3.5% of total income. The Medicare HI trust fund was credited with $24.2 billion in revenue from taxation of benefits, which equaled 7.9% of total income. In 2017, the Railroad Retirement system was credited with $292 million in revenue from taxation of Railroad Retirement Tier I benefits, representing about 2.3% of total income.

Under the intermediate assumptions of the 2019 Social Security Trustees Report, income taxes on benefits are projected to reach $92.3 billion in 2028, representing 5.7% of total income to the Social Security trust funds. Under the intermediate assumptions of the 2019 Medicare HI Trustees Report, income taxes on benefits are projected to be $63.7 billion in 2028, accounting for 12.4% of total income to the Medicare HI trust fund.

In the 116th Congress, four bills have been introduced that would affect the taxation of Social Security and Railroad Retirement Tier 1 benefits: H.R. 860 (Representative Larson) and its corresponding measure S. 269 (Senator Blumenthal), H.R. 3966 (Representative Lipinski), and H.R. 3971 (Representative Massie).

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Introduction

The Social Security system provides monthly benefits to qualified retirees, disabled workers, and their spouses and dependents; it also provides monthly benefits to qualified survivors of deceased workers. Before 1984, Social Security benefits were exempt from the federal income tax. Congress passed legislation in 1983 to tax a portion of Social Security and Railroad Retirement Tier I benefits, with the share of benefits subject to taxation gradually increasing as a person's income rose above a specified income threshold.[1] In 1993, a second income threshold was added that increased the taxable share of benefits. These two thresholds are often referred to as *first tier* and *second tier*.

In the congressional debate leading to the Social Security Amendments of 1983 and the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993), the committee reports noted a desire to

- treat Social Security benefits more like private pension benefits, in which benefits are subject to income tax except for the portion attributable to the individual's own contributions to the system (on which the individual had already paid income tax);
- protect lower-income beneficiaries from taxation of benefits; and
- improve the Social Security program's solvency.[2]

Today, approximately half of Social Security beneficiaries pay federal income taxes on a portion of their benefits. That percentage is projected to increase over time because the income thresholds used to determine the taxable share of benefits are not indexed for inflation or wage growth.

In 2020, Social Security tax liability (federal income taxes owed on Social Security benefits) is projected to be 6.6% of Social Security benefits, with higher tax liabilities associated with higher income categories. Among affected taxpayer units, the average dollar value of Social Security tax liability is projected to be $3,211, again with higher projected tax liabilities for those in higher income brackets.

Overall in 2016, 31.4% of all Social Security benefit payments were taxable. Revenue from the federal taxation of benefits is directed to the Social Security trust funds, the Medicare Hospital Insurance (HI) trust fund, and the Railroad Retirement system,[3] and it makes up 3.5%, 7.9%, and 2.3% of total income to the respective systems. In 2028, income from the taxation of benefits is projected to reach 5.7% of revenue to the Social Security trust funds and 12.4% of revenue to the Medicare HI trust fund.

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[1] Railroad Retirement Tier I benefits are paid to a qualified railroad retiree who has met the quarterly work requirements for Social Security benefit eligibility. The retiree receives Social Security benefits based on the work history that qualified the retiree for Social Security benefits, and the retiree receives Tier I benefits based on both the Social Security and railroad work histories. The actual Social Security benefits received are subtracted from this calculation of Tier I benefits to get actual Tier I benefits. See CRS Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*. In this report, references to Social Security benefits generally also apply to Tier I benefits.

[2] Larry DeWitt, "Research Note #12: Taxation of Social Security Benefits," Social Security Administration Historian's Office, February 2001, at https://www.ssa.gov/history/taxationofbenefits.html.

[3] The Railroad Retirement Board, an independent federal agency, administers retirement, survivor, disability, unemployment, and sickness insurance for railroad workers and their families. The Railroad Retirement Act authorizes retirement, disability, and survivor benefits for railroad workers and their families, financed primarily by payroll taxes, financial interchanges from Social Security, and transfers from the National Railroad Retirement Investment Trust. See CRS Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*.

This report details the rules for determining the portion of Social Security benefits subject to federal income taxation, provides statistics about Social Security benefits subject to taxation and the amount of taxes owed, and discusses the impacts on the Social Security and Medicare HI trust funds. It also explains the history of the federal income taxation of Social Security benefits and briefly describes current legislative proposals that would change the taxation of Social Security benefits.

Determining the Portion of Social Security Benefits Subject to Federal Income Taxation

In general, about half of Social Security beneficiaries pay federal income taxes on a portion of their benefits. Up to 85% of Social Security benefits can be included in taxable income for recipients whose "provisional income" exceeds either of two statutory thresholds (based on filing status).[4]

Provisional income is adjusted gross income,[5] *plus* certain otherwise tax-exempt income (tax-exempt interest), *plus* the addition of certain income specifically excluded from federal income taxation (interest on certain U.S. savings bonds,[6] employer-provided adoption benefits, foreign earned income or foreign housing, and income earned in Puerto Rico or American Samoa by bona fide residents), *plus* 50% of Social Security benefits.

The first-tier thresholds, below which no Social Security benefits are taxable, are $25,000 of provisional income for taxpayers filing as single, head of household, or qualifying widow(er) and $32,000 of provisional income for taxpayers filing a joint return. In the case of taxpayers who are married filing separately, the threshold is also $25,000 of provisional income if the spouses lived apart all year, but it is $0 for those who lived together at any point during the tax year.[7]

If provisional income is between the first-tier thresholds and the second-tier thresholds of $34,000 (for single filers) or $44,000 (for married couples filing jointly), the amount of Social Security

[4] For additional information on calculating taxable Social Security benefits, see U.S. Department of the Treasury, Internal Revenue Service, "Social Security and Equivalent Railroad Retirement Benefits," *Publication 915*, at http://www.irs.gov/pub/irs-pdf/p915.pdf. The term *provisional income* is not defined in the Internal Revenue Code but was referred to in the conference report accompanying the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), which established the second-tier threshold. See U.S. Congress, Committee on the Budget, *Omnibus Budget Reconciliation Act of 1993*, conference report to accompany H.R. 2264, 103th Cong., 1st sess., August 4, 1993, H.Rept. 103-213, (Washington: GPO, 1993), p. 594, at https://www.finance.senate.gov/imo/media/doc/confrpt103-213.pdf.

[5] Adjusted gross income (AGI) is the main measure of income used when computing income taxes. The Internal Revenue Service refers to provisional income as *modified adjusted gross income*. See IRS *Publication 915* for details on the sources of income included in computing provisional income.

[6] Interest on qualified U.S. savings bonds used to pay certain educational expenses is exempt from federal income taxation.

[7] "The base amount is zero for married individuals filing separate returns because the committee believes that the family should be treated as the integral unit in determining the amount of social security benefit that is included in gross income under this provision. If the base amount for these individuals were higher, couples who are otherwise subject to tax on their benefits and whose incomes are relatively equally divided would be able to reduce substantially the amount of benefits subject to tax by filing separate returns." U.S. Congress, House Committee on Ways and Means, *Social Security Act Amendments of 1983*, report to accompany H.R. 1900, 98th Cong., 1st sess., H.Rept. 98-25 Part 1 (Washington, DC: GPO, 1983), p. 24, at https://www.ssa.gov/history/pdf/Downey%20PDFs/Social%20Security%20Amendments%20of%201983%20Vol%201.pdf.

benefits subject to tax is the lesser of (1) 50% of Social Security benefits or (2) 50% of provisional income in excess of the first threshold.

If provisional income is above the second-tier thresholds, the amount of Social Security benefits subject to tax is the lesser of (1) 85% of benefits or (2) 85% of provisional income above the second threshold, plus the smaller of (a) $4,500 (for single filers) or $6,000 (for married filers)[8] or (b) 50% of benefits.

Because the threshold for married taxpayers filing separately who have lived together any time during the tax year is $0, the taxable benefits in such a case are the lesser of 85% of Social Security benefits or 85% of provisional income. None of the thresholds are indexed for inflation or wage growth. **Table 1** summarizes the thresholds and calculation of taxable benefits.

Table 1. Calculation of Taxable Social Security and Railroad Retirement Tier I Benefits

	Provisional Income[a]	Taxable Social Security and Railroad Retirement Tier I Benefits
		Single Taxpayer
(A)	Less than $25,000	None
(B)	$25,000 to $34,000	Lesser of (1) 50% of benefits or (2) 50% of provisional income above $25,000 (maximum of $4,500)
(C)	Greater than $34,000	Lesser of (1) 85% of benefits or (2) 85% of provisional income above $34,000 plus amount from line (B)
		Married Taxpayer
(D)	Less than $32,000	None
(E)	$32,000 to $44,000	Lesser of (1) 50% of benefits or (2) 50% of provisional income above $32,000 (maximum of $6,000)
(F)	Greater than $44,000	Lesser of (1) 85% of benefits or (2) 85% of provisional income above $44,000 plus amount in line (E)

Source: Internal Revenue Service, Publication 915, "Social Security and Equivalent Railroad Retirement Benefits."

a. Provisional income is adjusted gross income plus certain income exclusions plus 50% of Social Security benefits.

The two examples in **Table 2** illustrate how taxable Social Security benefits may be calculated for *single (nonmarried)* retirees in tax year 2018. In the examples, John and Mary are at least 62 years of age and receive $17,500 in annual Social Security benefits—about the average for a retired worker in 2018.[9] John has non-Social Security income of $20,000, whereas Mary has non-Social Security income of $30,000. John's provisional income is between the first-tier and second-tier thresholds, resulting in taxable Social Security benefits of $1,875. Because Mary's provisional income is higher than John's and exceeds the second-tier threshold, a larger amount of her Social Security benefits ($8,537.50) is subject to income taxation. Because of the

[8] The $4,500 and $6,000 amounts are the maximum taxes for the first-tier calculation, and they are equivalent to 50% of the difference between the first- and second-tier thresholds.

[9] The average monthly Social Security benefit for a retired worker in December 2018 was about $1,461, equaling an annual payment amount of $17,532. Information on monthly benefit payments for December 2018 is available in the Social Security Administration's (SSA's) Monthly Statistical Snapshot at https://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/2018-12.html.

differences in non-Social Security income, 10.7% of John's Social Security benefits are subject to income taxation, compared with 48.8% of Mary's. The amount of income tax John and Mary owe on their taxable Social Security benefits is determined separately through the federal income tax system based on their other taxable income and their marginal tax rates.

Table 2. Calculation of Taxable Social Security Benefits for Single Social Security Recipients with a $17,500 Benefit and Different Levels of Other Income: An Example

Step 1: Calculate Provisional Income	**John**	**Mary**
Other income	$20,000	$30,000
+ 50% of Social Security (assume annual Social Security benefits are $17,500)	$8,750	$8,750
= Provisional income	$28,750	$38,750
Step 2: Compare Provisional Income to First-Tier Threshold		
First-tier threshold	*$25,000*	*$25,000*
Excess over first-tier threshold Lesser of • Provisional income *minus* first-tier threshold *or* • Difference between first-and second-tier thresholds [$9,000]	$3,750	$9,000
First tier taxable benefits equals Lesser of • 50% of benefits *or* • 50% of excess over first tier	$1,875	$4,500[a]
Step 3: Compare Provisional Income To Second-Tier Threshold		
Second-tier threshold	*$34,000*	*$34,000*
Calculate excess over second tier • Provisional income *minus* second-tier threshold	$0	$4,750
Second tier taxable benefits 85% of excess	$0	$4,037.50
Step 4: Calculate Total Taxable Social Security Benefits		
For John: Provisional income is less than $34,000, so total taxable benefits equal first tier taxable benefits. For Mary: Provisional income is greater than $34,000, so total taxable benefits equal the lesser of • 85% of Social Security benefits (= $14,875) *or* • First tier taxable benefits *plus* second tier taxable benefits ($4,500 + $4,037.50 = $8,537.50) Note: The amounts shown here for John and Mary are the taxable portions of their annual Social Security benefits. The amount of taxes paid on their taxable Social Security benefits is determined separately based on their other taxable income and their marginal tax rates.	$1,875	$8,537.50

Source: Congressional Research Service (CRS).

a. The maximum amount of first tier taxable benefits is 50% of the difference between the second- and first-tier thresholds ($34,000 - $25,000 = $9,000 × 50% = $4,500).

The calculation of taxable Social Security benefits depends on the level of benefits and the level of non-Social Security income.

- Holding *benefits* constant, as non-Social Security income increases, provisional income increases, and therefore the amount of taxable Social Security benefits increases.
- Holding *non-Social Security income* constant, as Social Security benefits increase, the taxable amount of Social Security benefits increases.

Those two perspectives are illustrated in the two figures below. (The figures are for single retirees only, but they would be similar for married couples.)

Figure 1 shows taxable Social Security benefits for single retirees with four different amounts of annual Social Security benefits ($10,000, $15,000, $20,000, and $25,000) as non-Social Security income increases from zero to $45,000. (Provisional income, which equals non-Social Security income plus half of Social Security benefits, is not shown directly in the figure.) Once provisional income exceeds the first-tier threshold of $25,000, each additional dollar of non-Social Security income results in 50 cents of additional taxable income. For example, for someone with Social Security benefits of $10,000, no benefits are taxable unless non-Social Security income exceeds $20,000, in which case provisional income would exceed $25,000 (which equals $20,000 plus half of $10,000).

Once provisional income exceeds the second-tier threshold, each additional dollar of non-Social Security income results in an additional 85 cents of taxable income. As described above, the second-tier threshold occurs when provisional income exceeds $34,000, at which point taxable Social Security benefits exceed $4,500. In the figure, a horizontal line marks $4,500 of taxable Social Security benefits.

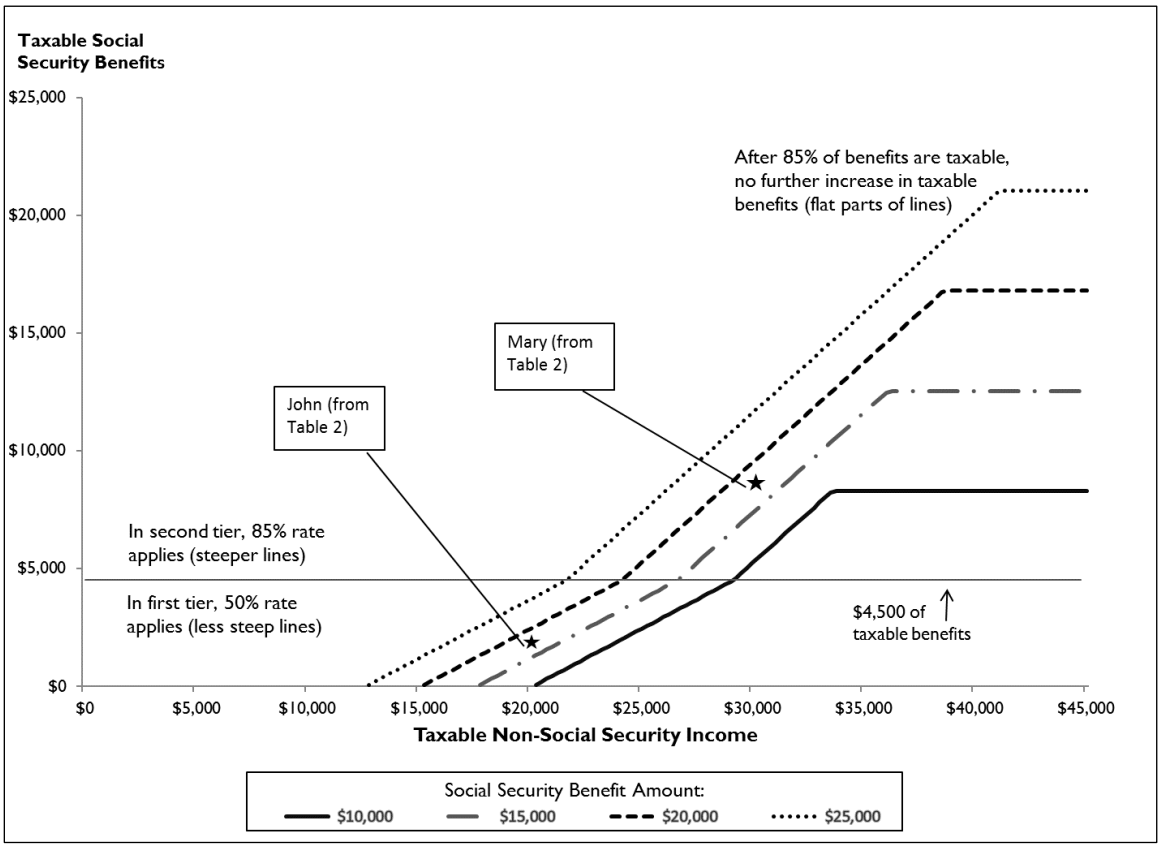
The taxable amount of Social Security benefits continues to increase as non-Social Security income increases until 85% of Social Security benefits are taxable. After that, the amount of taxable benefits is constant, as shown by the flat portions of the lines on the right-hand side of the figure.

Stars in the figure identify **Table 2**'s example retirees, John and Mary. Both have the same amount of Social Security benefits ($17,500); however, Mary has greater taxable Social Security benefits than John because her non-Social Security income is larger ($30,000 for Mary, $20,000 for John). Mary is in the second tier of the calculation of taxable Social Security benefits, whereas John is in the first tier.

Note that the additional *tax owed* is less than the additional *taxable income*. The additional tax owed equals the additional taxable income multiplied by the taxpayer's marginal tax rate. That is, the additional taxable income is the additional amount subject to federal income taxation, not the additional amount paid in taxes.

Figure 1. Taxable Social Security Benefits as Annual Non-Social Security Income Increases

(for single retirees with four different amounts of annual Social Security benefits)



Source: Congressional Research Service (CRS).

Notes: Once provisional income (taxable non-Social Security income plus half of Social Security benefits) exceeds the first-tier threshold of $25,000, each additional dollar of non-Social Security income results in 50 cents of additional taxable income. Once provisional income exceeds the second-tier threshold of $34,000, when taxable Social Security benefits equal $4,500, each additional dollar of non-Social Security income results in 85 cents of additional taxable income, reflected in the steeper lines.

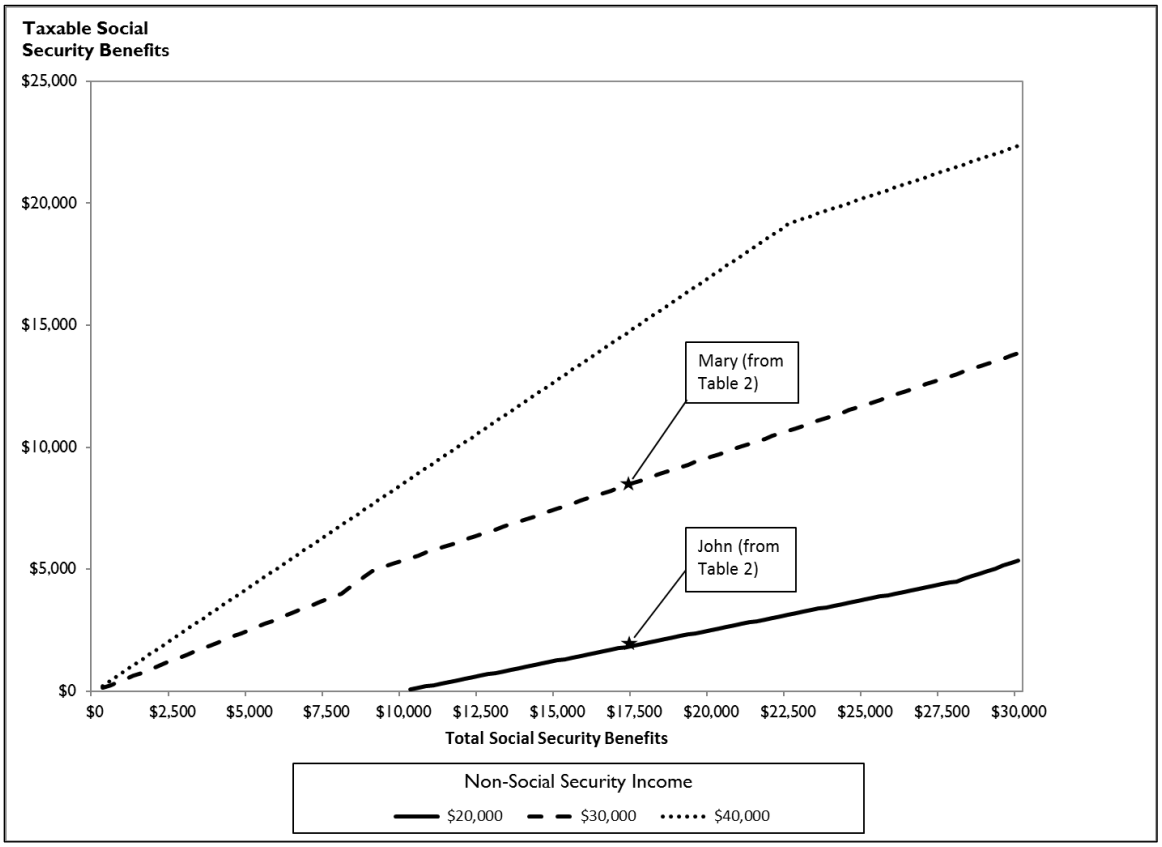
Figure 2 shows taxable Social Security benefits for single retirees with three different levels of non-Social Security income ($20,000, $30,000, and $40,000) as Social Security benefits increase. (Provisional income, which equals non-Social Security income plus half of Social Security benefits, is not shown directly in the figure.) For people with $10,000 of Social Security benefits, those benefits would be untaxed unless non-Social Security income exceeded $20,000, at which point provisional income would exceed the $25,000 threshold (which equals half of $10,000 plus $20,000).

Stars in the figure identify **Table 2**'s example retirees, John and Mary. Although they have the same amount of Social Security benefits ($17,500), they are on different lines in the figure, representing the differences in their non-Social Security income. If John or Mary were to experience an increase or decrease in their Social Security benefits, holding non-Social Security income constant, their new amount of taxable Social Security benefits would be found by moving to the right or left, respectively, along their same non-Social Security income lines in the figure.

As noted above, the additional *tax* owed is less than the additional *taxable income*, because the additional tax owed equals the additional taxable income multiplied by the taxpayer's marginal tax rate.

Figure 2. Taxable Social Security Benefits as Total Annual Social Security Benefits Increase

(for single retirees with three different amounts of annual non-Social Security income)



Source: CRS.

Notes: For any fixed amount of non-Social Security income, the amount of taxable Social Security benefits increases as total Social Security benefits increase. The slope of the lines varies because the amount of Social Security benefits that is taxable increases at varying rates as total benefits increase.

For the same levels of non-Social Security income and Social Security benefits, a married couple will have lower taxable Social Security benefits than a single retiree. Consequently, **Figure 1** and **Figure 2** do not reflect the impact of taxation on a married couple filing a joint tax return.

Special Considerations

The application of the benefit taxation formula may vary within special considerations. These include lump-sum distributions, repayments, workers' compensation coordination, nonresident aliens' treatment, and wage withholdings. Each consideration is discussed in more detail in the **Appendix** to this report.

State Taxation

Although the Railroad Retirement Act prohibits states from taxing railroad retirement benefits, including any federally taxable Tier I benefits (45 U.S.C. §231m), states may tax Social Security benefits. In general, state personal income taxes follow federal taxes. That is, many states use federal adjusted gross income, federal taxable income, or federal taxes paid as a beginning point for state income tax calculations. All of these beginning points include the federally taxed portion of Social Security benefits. States with these beginning points for state taxation must then make an adjustment, or subtraction from income (or taxes), for railroad retirement benefits. A state may also make an adjustment for all or part of the federally taxed Social Security benefits. Some states do not begin state income tax calculation with these federal tax values, but instead begin with a calculation based on income by source. The state may then include part or all of Social Security benefits in the state income calculation.[10]

As shown in **Table 3**, as of tax year 2017, 29 states and the District of Columbia fully exclude Social Security benefits from the state personal income tax. Nine states tax all or part of Social Security benefits but differ from the federal government, and five states follow the federal government in their tax treatment of Social Security benefits. The remaining seven states have no personal income tax.

Table 3. State Income Taxation of Social Security Benefits, Tax Year 2017

Twenty-nine states and the District of Columbia exempt Social Security benefits from income taxation	Alabama, Arizona, Arkansas, California, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Virginia, Wisconsin
Nine states tax all or part of Social Security benefits but not the same as federal taxation	Colorado, Connecticut, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Rhode Island
Five states follow federal taxation of Social Security benefits	New Mexico, North Dakota, Utah, Vermont, West Virginia
Seven states do not have an income tax	Alaska, Florida, Nevada, South Dakota, Texas, Washington, Wyoming

Source: Rick Olin, Wisconsin Legislative Fiscal Bureau, *Individual Income Tax Provisions in the States*, Informational Paper 4, January 2019, available at http://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2019/0004_individual_income_tax_provisions_in_the_states_informational_paper_4.pdf.

Growth in Social Security Benefits Subject to Taxation

Historical data from 1999 through 2016 show that the number and percentage of beneficiaries subject to taxation of Social Security benefits is growing over time because the provisional income thresholds used to determine the taxable share of benefits are not indexed for inflation or wage growth. **Table 4** shows that the percentage of all tax returns with taxable Social Security benefits has grown from 7.4% in 1999 to 13.3% in 2016. In the aggregate, **Table 4** shows that the amount of taxable Social Security benefits as a percentage of all Social Security benefit payments has grown from 19.5% in 1999 to 31.4% in 2016.

[10] States that tax Social Security benefits generally tax up to the federally taxed amount.

Table 4. Income Taxation of Social Security Benefits, 1999-2016

Year	Percentage of All Tax Returns with Taxable Social Security Benefits	Taxable Social Security Benefits as a Percentage of All Social Security Benefits
1999	7.4	19.5
2000	8.2	22.1
2001	8.3	21.7
2002	8.2	20.6
2003	8.4	20.8
2004	8.8	22.4
2005	9.4	24.0
2006	9.9	26.4
2007	10.5	28.6
2008	10.5	27.3
2009	10.9	25.9
2010	11.3	27.2
2011	11.5	27.8
2012	12.3	28.9
2013	12.6	30.0
2014	12.8	30.8
2015	13.1	31.3
2016	13.3	31.4

Source: CRS calculations from Internal Revenue Service, *Statistics of Income Bulletin Historical Table 1*, at https://www.irs.gov/statistics/soi-tax-stats-historical-table-1, and Social Security Administration, Office of the Chief Actuary, *Trust Fund Tables, OASI and DI Trust Funds, Combined, 1957 and later*, at https://www.ssa.gov/oact/STATS/table4a3.html.

The Congressional Budget Office (CBO) estimated that 49% of Social Security beneficiaries (25.5 million people) were affected by the income taxation of Social Security benefits in tax year 2014.[11] That share has almost doubled since 1998, when 26% of beneficiaries were affected by taxation of benefits.[12] A 2015 Social Security Administration (SSA) analysis projected that the share will continue to rise, with more than 56% of Social Security beneficiary families owing income tax on their Social Security benefits in 2050.[13]

[11] Congressional Budget Office (CBO), "Effect of Taxing Social Security Benefits by income Class Estimated for Tax Year 2014," February 12, 2015, https://www.cbo.gov/publication/49949.

[12] Ibid.

[13] Patrick J. Purcell, "Income Taxes on Social Security Benefits," SSA, Issue Paper no. 2015-02, December 2015, chart 1, at https://www.ssa.gov/policy/docs/issuepapers/ip2015-02.html. Note that the unit of analysis differs between the CBO analysis (Social Security beneficiaries) and the SSA analysis (Social Security beneficiary families), though the analyses are similar conceptually.

Federal Income Taxes Owed on Social Security Benefits by Income Level

Federal income tax liability on Social Security benefits increases with income.[14] **Figure 3** shows that the overall projected share of Social Security benefits that will be paid as federal income taxes is projected to be 6.6% in 2020. Among Social Security beneficiaries in taxpayer units with economic income less than $50,000, the share is projected to be either zero or nearly zero.[15] The share is projected to increase for economic income categories above $50,000 and is projected to reach 12.8% among Social Security beneficiaries in taxpayer units with economic income between $100,000 and $200,000 in 2020, going up to 31.9% among Social Security beneficiaries in taxpayer units with economic income over $1,000,000 in 2020.

The SSA's 2015 analysis projected that, among all Social Security beneficiary families, the mean percentage of Social Security benefits owed as taxes will be 10.9% in 2050, ranging from 1.1% among beneficiary families in the lowest quartile of the income distribution to 16.1% for beneficiaries in the top quartile.[16]

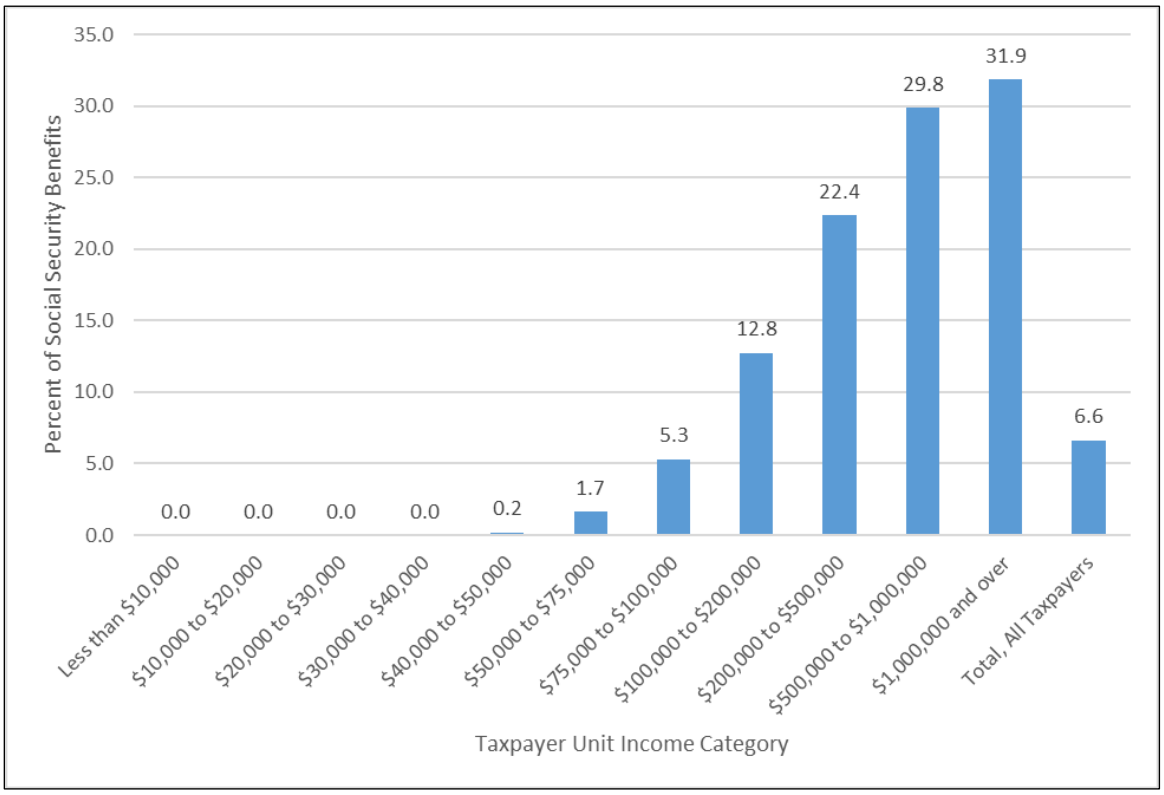
[14] Tax liability is the total amount of tax owed in a given period by a taxpayer unit. In this context, federal income tax liability on Social Security benefits refers to the total amount of federal income tax owed on the portion of a taxpayer unit's Social Security benefits that is subject to federal income taxation.

[15] The Joint Committee on Taxation defines *economic income* to include "the annual flow of all resources at the command of an individual and represents an individual's total well-being." Specifically, economic income is AGI plus (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of payroll taxes, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) the value of Medicare benefits in excess of premiums paid, (7) alternative minimum tax preference items, (8) individual share of business taxes, and (9) excluded income of U.S. citizens living abroad. Joint Committee on Taxation (JCT), *Background on Revenue Sources for the Social Security Trust Funds, JCX-41-19*, July 24, 2019, at https://www.jct.gov/publications.html?func=startdown&id=5216.

[16] Patrick J. Purcell, "Income Taxes on Social Security Benefits," SSA, Issue Paper no. 2015-02, December 2015, charts 2 and 5, at https://www.ssa.gov/policy/docs/issuepapers/ip2015-02.html. Note that the unit of analysis and definition of income in this study are different from the concepts in the Joint Committee on Taxation estimates in Figures 3 and 4.

Figure 3. Federal Income Tax Liability on Social Security Benefits as a Percentage of Social Security Benefits, by Taxpayer Unit Income Category

Projected for 2020



Source: CRS calculations from Joint Committee on Taxation, *Background on Revenue Sources for the Social Security Trust Funds, JCX-41-19*, Tables 9 and 10, July 24, 2019, at https://www.jct.gov/publications.html?func=startdown&id=5216.

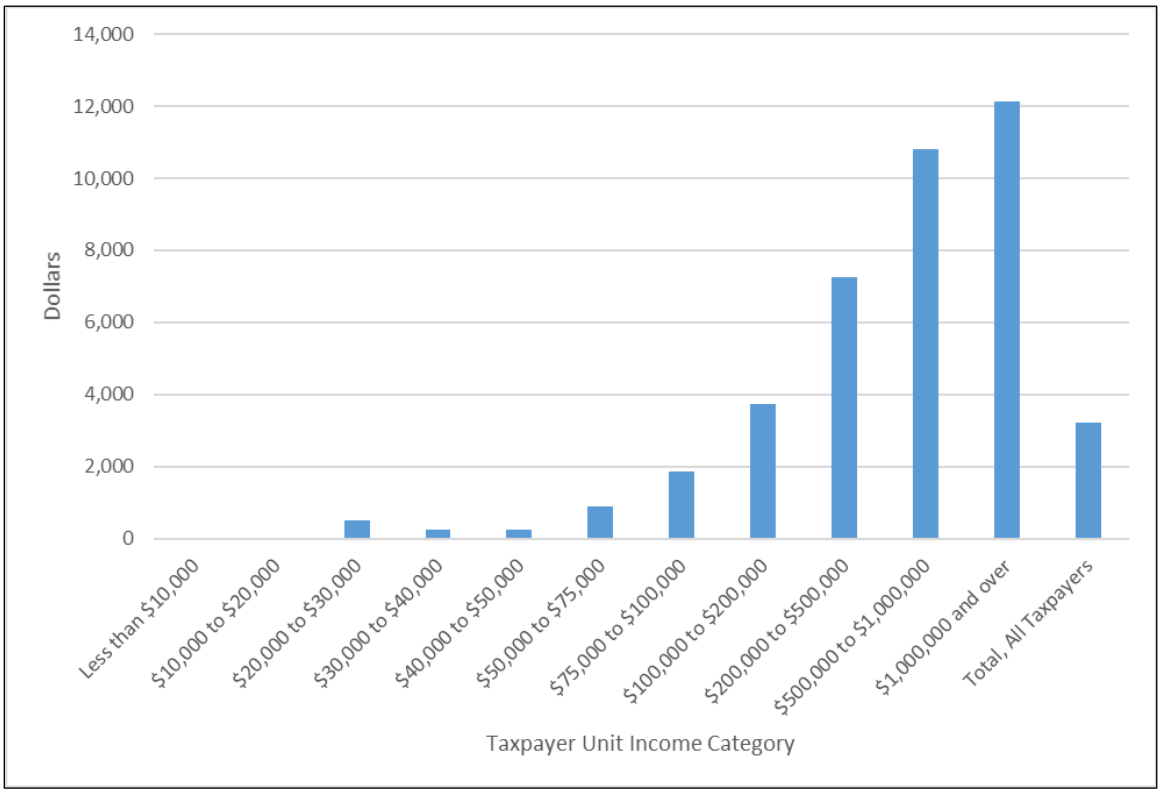
Notes: Taxpayer units include nonfilers, but exclude dependent filers and returns with negative income. The income concept used to place tax returns into income categories is adjusted gross income plus (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of payroll taxes, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) the value of Medicare benefits in excess of premiums paid, (7) alternative minimum tax preference items, (8) individual share of business taxes, and (9) excluded income of U.S. citizens living abroad. Categories are measured at 2020 levels.

Corresponding to the share of Social Security benefits payable as federal income tax in **Figure 3**, **Figure 4** shows the projected average federal income tax liability on Social Security benefits among Social Security taxpayer units, by taxpayer unit economic income category in 2020.[17] Average federal income tax liability in 2020 for Social Security taxpayer units with economic income less than $50,000 is projected to be either zero or nearly zero. Average federal income tax liability in 2020 is projected to rise steadily with economic income above $50,000, reaching approximately $3,700 for Social Security taxpayer units with economic income between $100,000 and $200,000 and just over $12,000 for Social Security taxpayer units with economic income above $1,000,000. Average federal income tax liability on Social Security benefits across all Social Security taxpayer units is projected to be about $3,200 in 2020.

[17] Social Security taxpayer units are those federal income taxpayer units that owe federal income taxes on their Social Security benefits.

Figure 4. Average Federal Income Tax Liability on Social Security Benefits Among Social Security Taxpayer Units, by Taxpayer Unit Income Category

Projected for 2020



Source: CRS and Joint Committee on Taxation, *Background on Revenue Sources for the Social Security Trust Funds, JCX-41-19*, Table 9, July 24, 2019, at https://www.jct.gov/publications.html?func=startdown&id=5216.

Notes: Social Security taxpayer units are those federal income taxpayer units that owe federal income taxes on their Social Security benefits. Taxpayer units include nonfilers, but exclude dependent filers and returns with negative income. The income concept used to place tax returns into income categories is adjusted gross income plus (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of payroll taxes, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) the value of Medicare benefits in excess of premiums paid, (7) alternative minimum tax preference items, (8) individual share of business taxes, and (9) excluded income of U.S. citizens living abroad. Categories are measured at 2020 levels.

Impact on the Trust Funds

The proceeds from taxing up to 50% of Social Security and Railroad Retirement Tier I benefits for beneficiaries with provisional income between the first-tier and second-tier thresholds are credited to Social Security's two trust funds—the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) trust funds—and to the Railroad Retirement system, on the basis of the source of the benefits taxed. Proceeds from taxing up to 85% of benefits for beneficiaries with provisional income above the second-tier thresholds are credited to Medicare's HI trust fund.

In 2018, the OASI and DI (collectively referred to as OASDI) trust funds were credited with $35.0 billion from taxation of benefits, or 3.5% of the funds' total income.[18] Income from the

[18] Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds,

taxation of benefits in the HI trust fund in 2018 was $24.2 billion, or 7.9% of total HI fund income.[19] In 2017, the Railroad Retirement system was credited with $292 million in revenue from taxation of Railroad Retirement Tier I benefits, representing about 2.3% of its total income.[20]

As noted above, because the income thresholds used to determine the taxable share of benefits are not indexed for inflation or wage growth, income taxes on benefits will become an increasingly important source of tax revenues for Social Security and Medicare. In 2016, about 31% of the total Social Security benefits were subject to income tax (**Table 4**). CBO estimated that proportion will increase to more than 50% by 2046.[21] The income taxes collected from Social Security benefits are projected to grow from 0.2% of gross domestic product (GDP) in 2019 to 0.3% of GDP in 2028 and 0.4% of GDP in 2078.[22]

Under the intermediate assumptions, the Social Security and Medicare Trustees project that over the next 10 years, income taxes will grow from 3.5% of Social Security's income to 5.7%. In addition, the share will continue to grow, to 7.4% by 2095.[23] For Medicare, income tax on benefits as a share of total revenue increases from 7.9% to 12.4% in 2028.[24]

History of Taxing Social Security Benefits

Until 1984, Social Security benefits were exempt from the federal income tax. The exclusion was based on rulings made in 1938 and 1941 by the Department of the Treasury, Bureau of Internal Revenue (the predecessor of the Internal Revenue Service). The 1941 bureau ruling on Social Security payments viewed benefits as being for general welfare and reasoned that subjecting the payments to income taxation would be contrary to the purposes of Social Security.[25]

Under these rules, the treatment of Social Security benefits was similar to that of certain types of government transfer payments (such as Aid to Families with Dependent Children, Supplemental Security Income, and benefits under the Black Lung Benefits Act). This was in sharp contrast to then-current rules for retirement benefits under private pension plans, the federal Civil Service

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2019 Annual Report, April 22, 2019 (hereinafter "OASDI Board of Trustees, *2019 Annual Report*"), at https://www.ssa.gov/OACT/TR/2019/tr2019.pdf, and CRS calculations. Of the $35.0 billion, $34.5 billion was credited to the OASI trust fund and $0.5 billion to the DI trust fund (totals do not necessarily equal the sums of rounded components).

[19] Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, *2019 Annual Report*, April 22, 2019 (hereinafter "HI and SMI Boards of Trustees, *2019 Annual Report*"), at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2019.pdf, and CRS calculations.

[20] United States Railroad Retirement Board, *2018 Annual Report*, https://www.rrb.gov/sites/default/files/2018-08/2018_Annual_Report.pdf.

[21] CBO, *The 2016 Long-Term Budget Outlook*, July 2016, p. 60, at http://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51580-LTBO.pdf.

[22] CBO, *Supplemental Information to The 2019 Long-Term Budget Outlook*, Table 6, June 2019, at https://www.cbo.gov/system/files/2019-07/51119-CBO-2019-06-ltbo.xlsx.

[23] CRS calculations based on OASDI Board of Trustees, *2019 Annual Report*, at https://www.ssa.gov/OACT/TR/2019/tr2019.pdf, and Social Security Administration, Office of the Chief Actuary, "Components of Annual Income Rates—2019 OASDI Trustees Report," at https://www.ssa.gov/oact/TR/2019/lr4b2.html.

[24] CRS calculations based on HI and SMI Boards of Trustees, *2019 Annual Report*, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2019.pdf.

[25] U.S. Congress, Senate Committee on Finance, *Tax Free Status of Social Security Benefits*, report to accompany S.Res. 87, S.Rept. 97-135, June 15, 1981.

Retirement System, and other government pension systems.[26] Benefits from those pension plans were fully taxable, except for the portion of total lifetime benefits (using projected life expectancy) attributable to the employee's own contributions to the system (and on which he or she had already paid income tax).

Currently (and as in 1941), under Social Security, the worker's contribution to the system is half of the payroll tax, officially known as the Federal Insurance Contributions Act (FICA) tax. The amount the worker pays into the Social Security system in FICA taxes is not subtracted to determine income subject to the federal income tax, and is therefore taxed. The employer's contributions to the system are not considered part of the employee's gross income, and they are deductible from the employer's business income as a business expense.[27] Consequently, neither the employee nor the employer pays taxes on the employer's contribution.[28]

The 1979 Advisory Council on Social Security concluded that because Social Security benefits are based on earnings in covered employment, the 1941 ruling was wrong and the tax treatment of private pensions was a more appropriate model for treating Social Security benefits.[29] The council estimated that the most anyone who entered the workforce in 1979 would pay in payroll taxes during his or her lifetime would equal 17% of the Social Security benefits he or she would ultimately receive. (This was the most any individual would pay; in the aggregate, workers would make payroll tax payments amounting to substantially less than 17% of their ultimate benefits.) Because of the administrative difficulties involved in determining the taxable amount of each individual benefit and to avoid "taxing more of the benefit than most people would consider appropriate," the council recommended instead that half of everyone's benefit be taxed. It justified this ratio as a matter of "rough justice" and noted that it coincided with the portion of the tax (the employer's share) on which income taxes had not been paid.[30]

The council's position on taxing Social Security benefits contrasted with that of the National Commission on Social Security, established by Congress in the Social Security Amendments of 1977 (P.L. 95-216). The commission did not, in its 1981 final report, include a recommendation to tax Social Security benefits. Also in 1981, the Senate passed a resolution by a roll-call vote of 98-0 against enacting legislation to tax Social Security benefits, stating that taxing Social Security benefits would be tantamount to a benefit cut and noting that the prospect of taxing benefits could undermine older Americans' confidence in the Social Security program:

> *Resolved*, That it is the sense of the Senate that any proposals to make social security benefits subject to taxation would adversely affect social security recipients and undermine their confidence in the social security programs, that social security benefits are and should

[26] Most federal civilian employees hired before 1984 are covered by the Civil Service Retirement System; those hired later are covered by the Federal Employees' Retirement System. See CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*.

[27] Employers can generally deduct the amount they pay their employees for the services they perform, including wages, salaries, bonuses, commissions, and other noncash employee benefit programs (e.g., accident and health plans, adoption assistance, cafeteria plans, dependent care assistance, education assistance, life insurance coverage). See IRS *Publication* 535, *Business Expenses*, at https://www.irs.gov/pub/irs-pdf/p535.pdf.

[28] Under the Self-Employment Contributions Act, self-employed workers pay the full 12.4% payroll tax, but to ensure parity with FICA, half of those payments are exempt from income tax.

[29] Statement of Henry Aaron, Chairman of the Advisory Council on Social Security, in U.S. Congress, Senate Select Committee on Aging, *Hearings Before the Committee on Retirement Income And Employment, Oversight on Recommendations of the 1979 Social Security Advisory Council*, S.Rept. 96-230, March 11 and 13, 1980, p. 13.

[30] Social Security Administration (SSA), *Social security financing and benefits*, Report of the 1979 Advisory Council, 1981, pp. 64-65.

> remain exempt from Federal taxation, and that the Ninety-seventh Congress will not enact legislation to subject social security benefits to taxation.[31]

The National Commission on Social Security Reform (often referred to as the "Greenspan Commission"), appointed by President Reagan in 1981, recommended in its 1983 report that, beginning in 1984, 50% of Social Security cash benefits and Railroad Retirement Tier I benefits be taxable for individuals whose adjusted gross income, excluding Social Security benefits, exceeded $20,000 for a single taxpayer and $25,000 for a married couple, with the proceeds of such taxation credited to the Social Security trust funds.[32] The commission did not include any provisions for indexing the thresholds. The commission estimated that 10% of Social Security beneficiaries would be subject to taxation of benefits. The commission acknowledged that the proposal had a "notch" problem, in that people with income at the thresholds would pay significantly higher taxes than those with only one dollar less, but trusted that it would be rectified during the legislative process.

In enacting the 1983 Social Security Amendments (P.L. 98-21), Congress adopted the commission's recommendation to tax Social Security benefits, but with a formula that gradually increased the taxable share as a person's income rose above the thresholds, up to a maximum of 50% of benefits. The formula calculated taxable benefits as the lesser of 50% of benefits or 50% of the excess of the taxpayer's provisional income over thresholds of $25,000 (for single filers) and $32,000 (for married filers). Provisional income equaled adjusted gross income plus tax-exempt interest plus certain income exclusions plus 50% of Social Security benefits.

The House Ways & Means Committee reported the following:

> Your Committee believes that social security benefits are in the nature of benefits received under other retirement systems, which are subject to taxation to the extent they exceed a worker's after-tax contributions and that taxing a portion of social security benefits will improve tax equity by treating more nearly equally all forms of retirement and other income that are designed to replace lost wages (for example, unemployment compensation and sick pay).[33,34]

The Senate Finance Committee reported the following:

> ... by taxing social security benefits and appropriating these revenues to the appropriate trust funds, the financial solvency of the social security trust funds will be strengthened.... By taxing only a portion of social security and railroad retirement benefits (that is, up to one-half of benefits in excess of a certain base amount), the Committee's bill assures that lower-income individuals, many of whom rely upon their benefits to afford basic necessities, will not be taxed on their benefits. The maximum proportion of benefits taxed

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[31] U.S. Congress, Senate, A resolution expressing the sense of the Senate that the Congress not enact legislation to tax Social Security benefits, and for other purposes, 97th Cong., 1st sess., S.Res. 87, S.Rept. 97-135 (Washington, DC: GPO, 1981), p. 2.

[32] SSA, *Report of the National Commission on Social Security Reform*, January 1983, pp. 2-10 through 2-11, available at http://www.ssa.gov/history/reports/gspan.html.

[33] U.S. Congress, House Committee on Ways and Means, *Social Security Act Amendments of 1983*, report to accompany H.R. 1900, 98th Cong., 1st sess., H.Rept. 98-25 Part 1 (Washington, DC: GPO, 1983), p. 24, at https://www.ssa.gov/history/pdf/Downey%20PDFs/Social%20Security%20Amendments%20of%201983%20Vol%201.pdf.

[34] Unemployment compensation including benefits paid by the Federal Unemployment Trust Fund and by states or the District of Columbia is reported on IRS Form 1099-G and is taxable as other income on IRS Form 1040. For additional information on the tax treatment of unemployment compensation and sickness and injury benefits, see the sections on "Unemployment Benefits" and "Sickness and Injury Benefits" in IRS *Publication* 525, *Taxable and Nontaxable Income*, at https://www.irs.gov/pub/irs-pdf/p525.pdf.

> is one-half in recognition of the fact that social security benefits are partially financed by after-tax employee contributions. The bill's method for taxing benefits assures that only those taxpayers who have substantial taxable income from other sources will be taxed on a portion of the benefits they receive.[35]

In 1993, the SSA's Office of the Actuary estimated that, if pension tax rules were applied to Social Security, the ratio of total employee Social Security payroll taxes to expected benefits for current recipients (in 1993) would be approximately 4% or 5%. For workers just entering the workforce, the actuaries estimated that the ratio would be, on average, about 7%.[36] Because Social Security benefits replaced a higher proportion of earnings for workers who were lower paid and had dependents, and because women had longer life expectancies, the workers with the highest ratio of taxes to benefits would be single, highly paid males. The estimated ratio for these workers (highly paid males) entering the workforce in 1993 was 15%.[37]

Applying the tax rules for private and public pensions presents practical administrative problems. Determining the proper exclusion would be complex for several reasons, including the difficulty of calculating the ratio of contributions to benefits for each individual when several people may receive benefits on the basis of the same worker's account.[38]

President William Clinton proposed (as part of his FY1994 budget proposal) that the portion of Social Security benefits subject to taxation be increased from 50% to 85%, effective in tax year 1994. As under then-current law, only Social Security recipients whose provisional income exceeded the thresholds of $25,000 (for single filers) and $32,000 (for married filers) were to pay taxes on their benefits. In addition, the first step was to add 50%, not 85%, of benefits to adjusted gross income. Because the thresholds and definition of provisional income did not change, the measure would only affect recipients already paying taxes on benefits. However, the ratio used to compute the amount of taxable benefits was increased from 50% to 85%. Taxing no more than 85% of Social Security benefits (the estimated portion not based on contributions by a recipient, including highly paid males) would ensure that no one would have a higher percentage of Social Security benefits subject to tax than if the tax treatment of private and civil service pensions were actually applied.

The proceeds from the increase (from 50% to 85%) were slated to be credited to the Medicare HI program, which had a less favorable financial outlook than Social Security. Doing so also avoided possible procedural obstacles (budget points of order that can be raised regarding changes to the Social Security program in the budget reconciliation process). This measure was included in the OBRA 1993, which passed the House on May 27, 1993.

The Senate version of the bill included a provision to tax Social Security benefits up to 85% but imposed it only after provisional income exceeded new thresholds of $32,000 (for single filers) and $40,000 (for married filers). The conference agreement adopted the Senate version of the taxation of Social Security benefits provision and raised the thresholds to $34,000 (for single filers) and $44,000 (for married filers).

President Clinton signed the measure into law (as part of P.L. 103-66) on August 10, 1993. Although other changes in tax law have since affected the amount of taxes paid on Social

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[35] U.S. Congress, Senate Committee on Finance, Social Security Act Amendments of 1983, report to accompany S. 1, 98th Cong., 1st sess., S.Rept. 98-23 (Washington, DC: GPO, 1983), pp. 25-26, at https://www.ssa.gov/history/pdf/Downey%20PDFs/Social%20Security%20Amendments%20of%201983%20Vol%202.pdf.

[36] Unpublished memo from Stephen C. Goss, Social Security Office of the Actuary, April 7, 1993. The ratios were computed using nominal dollar values for both taxes and benefits.

[37] Ibid.

[38] See section on "Benefits for the Worker's Family Members" in CRS Report R42035, *Social Security Primer*.

Security benefits, there have been no direct legislative changes regarding taxation of Social Security benefits since 1993.

Current Proposals Addressing the Taxation of Social Security Benefits

In the 116th Congress, four bills that would alter the taxation of Social Security benefits have been introduced. Each is described briefly below.

H.R. 567, the Save Social Security Act of 2019, was introduced in the House on January 15, 2019, by Representative Crist. In addition to applying the Social Security payroll tax to annual earnings above $300,000 and providing benefit credits for annual earnings above the current-law taxable maximum amount, H.R. 567 would replace the current-law provisional income thresholds for federal income taxation of Social Security benefits with a higher threshold and tax up to 85% of Social Security benefits for individuals and couples with provisional income above that threshold. The separate provisional income thresholds under current law for single individuals and married couples filing jointly would be replaced with one provisional income threshold. The separate thresholds under current law for taxation of up to 50% of Social Security benefits and up to 85% of Social Security benefits also would be replaced with a single threshold. H.R. 567 would tax up to 85% of Social Security benefits for tax filers with provisional income greater than $100,000. The new provisional income threshold would not be indexed to changes in prices or average wages. If enacted, H.R. 567 would result in less income tax revenue to the Social Security trust funds, the Medicare HI trust fund, and the Railroad Retirement system. General revenues would be appropriated in amounts required to make up the lost revenue to each fund.

H.R. 860, the Social Security 2100 Act, was introduced in the House on January 30, 2019, by Representative Larson. An identical bill, S. 269, was introduced in the Senate on the same date by Senator Blumenthal. The bills would increase the Social Security payroll tax rate, expand the share of aggregate covered earnings subject to the Social Security payroll tax, increase benefits for all beneficiaries, change the index used to calculate annual cost-of-living adjustments, and change the federal income taxation of Social Security benefits. Specifically, the bills would replace the separate provisional income thresholds under current law for taxation of up to 50% of Social Security benefits and up to 85% of Social Security benefits with new, higher thresholds for taxation of up to 85% of Social Security benefits, set at $50,000 for single filers and $100,000 for married couples filing jointly. As a result, the bills would reduce the number of beneficiaries who pay federal income taxes on their Social Security benefits. They would require that the Medicare HI trust fund be held harmless in light of the lost income tax revenue.[39]

H.R. 3971, the Senior Citizens Tax Elimination Act, was introduced in the House on July 25, 2019, by Representative Massie. It would eliminate the federal income taxation of Social Security benefits and Railroad Retirement Tier I benefits. Under H.R. 3971, Section 86 of the Internal Revenue Code of 1986, which provides for the federal income taxation of Social Security benefits

[39] The SSA's Office of the Chief Actuary and the CBO produced estimates that assume that a proportion of the revenue attributable to the federal income taxation of Social Security benefits would be directed to the HI trust fund to replicate the approximate total revenue that would have been designated as HI trust fund revenue under current law. The remaining portion of revenue from the federal income taxation of Social Security benefits would be directed to the Social Security trust funds. Letter from Stephen C. Goss, chief actuary, Social Security Administration, to Chairman Larson, Senator Blumenthal, and Senator Van Hollen, September 18, 2019, at https://www.ssa.gov/oact/solvency/LarsonBlumenthalVanHollen_20190918.pdf. Letter from Phillip L. Swagel, director, CBO, to Chairman Larson, October 10, 2019, at https://www.cbo.gov/system/files/2019-10/hr860ltr_1.pdf.

and Railroad Retirement Tier I benefits, would not apply to any taxable year beginning after the date of enactment of H.R. 3971. General funds would be appropriated in amounts needed to hold the Social Security trust funds and the Medicare HI trust fund harmless from the loss of income tax revenues. General funds also would be appropriated to the Railroad Retirement system in amounts needed to compensate for the lost income tax revenues.

Appendix. Taxation of Benefits Under Special Situations

Lump-Sum Distributions

A Social Security beneficiary may receive a lump-sum distribution of benefits owed for one or more prior years.[40] In this situation, a beneficiary may choose between two methods for calculating the taxable portion of the lump-sum distribution: (1) include all of the benefits for prior years in calculating the taxable benefits for the current year or (2) recalculate the prior-year taxable benefits using prior-year income and take the difference between the recalculated taxable benefits and the taxable benefits reported in each prior year. In either case, the additional taxable benefits are included in taxable income for the current year. In computing the taxable portion of benefits in prior years, some income sources generally excluded from the provisional income calculation are included.[41]

Repayments

Sometimes a Social Security beneficiary must repay a prior overpayment of benefits. In this case, the calculation of taxable Social Security benefits is based on the net benefits—gross benefits less the repayment—even if the repayment is for a benefit received in a previous year. For married taxpayers filing a joint return, net benefits equal the sum of the couple's Social Security gross benefits less the repayment.

If, however, the repayment results in negative net Social Security benefits, two consequences exist: (1) there are no taxable benefits and (2) the taxpayer may be able to deduct part of the negative net Social Security benefit if it was included in gross income in an earlier year.[42]

Coordination of Workers' Compensation

For individuals under the full retirement age who receive Social Security disabled worker benefits, Social Security benefits are reduced by a portion of any workers' compensation payments (or payments from some other public disability programs) received by the individual.[43] Workers' compensation is generally not taxable. Any reduction in Social Security benefits due to the receipt of workers' compensation is still considered to be a Social Security benefit, however, so income taxes are computed based on the full (unreduced) benefit amount.[44]

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[40] An individual originally denied benefits, but approved on appeal, may receive a lump-sum amount for the period when benefits were denied (which may be prior years). See Internal Revenue Service, *Publication 915*, "Lump-Sum Election." This is not the lump-sum death benefit, which is not subject to federal income tax.

[41] See "Lump-Sum Election" in Internal Revenue Service, *Publication 915*.

[42] For details on the repayment computations, see Internal Revenue Service, *Publication 915*, "Repayments More Than Gross Benefits."

[43] See section on "Workers' Compensation and Public Disability Benefit Offset" in CRS Report R44948, *Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI): Eligibility, Benefits, and Financing*.

[44] Section 86(d)(3) of the Internal Revenue Code; see also United States Tax Court, T.C. Memo. 2012-249, August 28, 2012, at http://www.ustaxcourt.gov/InOpHistoric/moorermemo.TCM.WPD.pdf, and United States Tax Court, T.C. Summary Opinion 2014-66, July 10, 2014, at https://www.ustaxcourt.gov/InOpHistoric/EnglishSummary.Gerber.SUM.WPD.pdf.

Treatment of Nonresident Aliens

Citizenship is not required to receive Social Security benefits. Nonresident aliens, under IRS definitions, may receive benefits provided they have engaged in covered employment and otherwise meet eligibility requirements. The IRS defines a nonresident alien as a noncitizen who (1) is not a lawful permanent resident (this is known as the *Green Card Test*) and (2) has been physically present in the United States for fewer than 31 days in the previous calendar year and 183 days in the previous three-year period, counting all the days in the calendar year and a portion of the days in the two previous calendar years (this is known as the *Substantial Presence Test*).[45] In general, 85% of the Social Security benefits for nonresident aliens are taxable (i.e., none of the thresholds apply) at a 30% rate. However, there are a number of exceptions to this general rule on the basis of tax treaties such that nonresident aliens or U.S. citizens living abroad may not have U.S. Social Security benefits subject to U.S. income taxes.[46]

Withholding

In general, withholding for a wage earner is based on the estimated income taxes for a full year of earnings at the periodic (weekly, biweekly, monthly, etc.) rate. Taxable Social Security benefits, and the associated taxes, are based on the amount of non-Social Security income earned by a recipient during the tax year. The Social Security Administration, without knowledge about the amount of other income received by a beneficiary, is unable to properly determine the amount of taxes that should be withheld from Social Security benefits. Like other taxpayers, Social Security recipients can make quarterly estimated income tax payments. In addition, effective for payments issued in February 1999, individuals may request voluntary tax withholding from Social Security benefits.[47]

Nonresident aliens residing outside the United States are subject to different tax withholding rules. Section 871 of the Internal Revenue Code imposes a 30% tax withholding rate on almost all of the U.S. income of nonresident aliens, unless a lower rate is fixed by treaty. Thus, 30% of 85% (or 25.5%) of a nonresident alien's Social Security benefits may be withheld for federal income taxes.

[45] See Internal Revenue Service, *Publication 519*, "U.S. Tax Guide for Aliens," at https://www.irs.gov/pub/irs-pdf/p519.pdf.

[46] See Internal Revenue Service, *Publication 519*, and Internal Revenue Service, "Tax Treaty Tables," at https://www.irs.gov/individuals/international-taxpayers/tax-treaty-tables.

[47] The Uruguay Round Agreements Act (P.L. 103-465) amended the Internal Revenue Code to allow individuals to request voluntary tax withholding from certain federal payments to satisfy their income tax liability. An amendment to Section 207 of the Social Security Acct allowed voluntary tax withholding from Social Security benefits, effective with payments issued in February 1999. The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA; P.L. 107-16) permitted voluntary withholding from Social Security benefits at rates of 7%, and equal to the bottom three tax bracket tax rates (currently 10%, 15%, and 25%). The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) extended the EGTRRA provisions to tax year 2012. The American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240) made the EGTRRA provisions permanent. Because they are not subject to the federal income tax, Supplemental Security Income payments, Black Lung payments, Medicare premium refunds, Lump Sum Death Payments, returned check reissuances, and benefits due before January 1984 are not subject to voluntary tax withholding.

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