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The Honorable Phil Gramm
United States Senator
2323 Bryan Street #2150
Dallas, Texas 75201

Attention: Sheacy L. Reynolds

Dear Senator Gramm:

This letter is in reply to your inquiry dated July 5, 2000, requesting information on behalf of your constituent, [redacted]. Specifically, [redacted] is concerned that the repeal of the Social Security retirement earnings limit benefits only people between the ages of 65 and 70, but does not benefit people between 62 and 64. I have enclosed a copy of [redacted] correspondence as you requested.

I hope the following information will help you answer [redacted] question:

The New Freedom to Work Act

On April 7, 2000, the Congress enacted the Senior Citizens' Freedom to Work Act of 2000 (the Freedom to Work Act). The Freedom to Work Act provided generally that for taxable years after December 31, 1999, the term "retirement age" (meaning full retirement age as discussed below) be substituted for "age 70" in the portions of the law governing the retirement earnings limit. Due to the substitution, the retirement earnings limit that ceased to be applicable to recipients at age 70 would now cease to be applicable at full retirement age. Pub. L. No. 106-182, 114 Stat. 198 (2000).

[redacted] Question About the Retirement Earnings Limit for People Between Ages 62 and 64

The Freedom to Work Act did not address individuals who began to receive benefits before reaching full retirement age. The legislative history to The Freedom to Work Act does not include any extensive debate over whether the repeal of the retirement earnings limit should also apply to early retirement years (62 to 64), and thus we cannot explain why the repeal applies only to people who have attained full retirement age.

The legislative history, however, does refer to the higher retirement earnings limit applicable to people ages 62 to 64, including how that limit would be applied in the year the worker attained full retirement age. H.R. Rep. No. 507, 106th Cong., 2d Sess. 8, *reprinted in* 2000 U.S.C.C.A.N. at 167; 146 Cong. Rec. H1441 (daily ed. March 28, 2000) (statement of Cong. Shaw). These references show the Congress was aware the repeal would not apply to years before full retirement age.

In testimony at a Congressional hearing, the Commissioner for Social Security Kenneth Apfel addressed the issue. He expressed the view that eliminating the retirement earnings limit for people under the full retirement age would result in more individuals choosing to leave the workforce before full retirement age, and therefore more people receiving a reduced Social Security benefit. This reduction in turn would lead to more seniors living in poverty. The Commissioner noted this could have a particularly large impact on widows whose benefit typically is based upon the reduced benefit received by the deceased husband who chose early retirement. To avoid the predicted increase in elderly widows living in poverty, the Commissioner said the best policy was to eliminate the earnings test only at full retirement age. Testimony of Kenneth Apfel Commissioner for Social Security at Hearing before Subcommittee on Social Security, The House of Representatives Committee on Ways and Means (February 15, 2000).

Although the repeal does not apply to workers before they attain full retirement age, they will benefit from the repeal because it will also apply to them when they reach full retirement age.

Short History of Social Security

Social Security benefits have been subject to a retirement earnings limit since the beginning of the program. The retirement earnings limit was to encourage older workers to leave the work force so jobs would be available for younger workers.

The limit encouraged older workers to leave the work force by reducing benefits if their earnings exceeded a certain limit. The limit applied only to earnings from wages and self-employment income and did not apply to other “unearned” income such as pensions, interest on savings, or gain from investments.

The Old Law

Before the recent repeal of the Social Security retirement earnings limit, there were two different retirement earnings limits. Before reaching full retirement age (age 65 and increasing to age 67 by the year 2027), workers were subject to a lower earnings limit ($10,080 for the year 2000) and a 50% benefit withholding for earnings above the limit. After reaching age 65, workers were subject to a higher earnings limit ($17,000 for the year 2000) and a 33% benefit withholding for earnings above the limit. After reaching age 70, the recipient was no longer subject to a retirement earnings limit.

For recipients subject to the retirement earnings limits, the withholding of the benefits acted like an additional tax on earnings. Workers between age 62 and 64 had an additional 50% tax on earnings, while workers receiving benefits after age 64 had an additional 33% tax. In combination with the federal, state, and local taxes on the earnings received, the marginal tax rate (the rate of tax paid on the additional income received above the earnings limit) was often 60% or higher, and could reach as high as 100% in certain cases.

Social Security gave delayed retirement credits to compensate workers age 65 to 69 whose benefits were withheld under the retirement earnings limit. These credits increased the individual's retirement benefits for each month that benefits were fully withheld after attaining age 65. Although the credit generally was calculated to reimburse the individual for all benefits lost due to the retirement earnings test, the full reimbursement would not be received if the individual died before receiving all available credits.

A similar mechanism was available for workers age 62 to 64 whose reduced benefits were withheld due to the retirement earnings limit. Once that individual reached 65, the payment was adjusted upward to account for the withheld earnings. Again, whether the individual received the full value of withheld benefits would depend on when the individual died.

This letter will be made available for public inspection after names, addresses, and other identifying information have been deleted, as appropriate, under the Freedom of Information Act.

I hope the information provided will help you to respond to your constituent. If you have further questions, please call Stephen Tackney (Identification Number 50-18084) at (202) 622-6040.

Sincerely,

Mary Oppenheimer
Assistant Chief Counsel
(Exempt Organizations/Employment
Tax/Government Entities)

Enclosure