INTERNAL REVENUE SERVICE

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The Honorable Russell D. Feingold
United States Senate
Washington, D.C. 20510

Attention: Rebecca Kratz

Dear Senator Feingold:

This letter is in response to your correspondence dated March 30, 2001, forwarding [redacted] concern about the taxation of his social security benefits. I hope the following general information helps you respond to [redacted].

As a general rule, if the only source of a recipient's income is social security benefits, those benefits are not subject to income tax. However, a portion of social security benefits may be taxable if the recipient receives additional income from another source. Where total income exceeds certain amounts, a part of the social security benefits are taxable. [Section 86 of the Internal Revenue Code (the Code)].

Up to 50 percent of social security benefits are taxed if a person's income is more than the following base amounts:

- $25,000
- $32,000 if married and filing a joint return
- Zero, for married individuals who do not file a joint return and do not live apart from their spouse at all times during the taxable year

Up to 85 percent of social security benefits are taxed if a person's income is more than the following amounts:

- $34,000
- $44,000 if married and filing a joint return
- Zero, for married individuals who do not file a joint return and do not live apart from their spouse at all times during the taxable year

If a taxpayer is married and files a joint return, the taxpayer and spouse must combine their income and social security benefits in deciding if any part of the combined benefits is taxable. This rule applies even if one spouse did not receive social security benefits.

I have enclosed a copy of Publication 915, Social Security and Equivalent Railroad Retirement Benefits, which provides more detailed information on the income tax rules for social security benefits.

The Social Security Amendments Act of 1983 added section 86 to the Code and the Omnibus Budget Reconciliation Act of 1993 amended it. The Congress did not view section 86 as a penalty. The Congress enacted section 86 because it believed the existing policy of excluding all social security benefits from a person's gross income was inappropriate. Social security benefits are similar to benefits received under other retirement systems, which are subject to taxation if they exceed a worker's after tax contributions. Consequently, taxing a portion of social security benefits improves tax equity by treating more equally all forms of retirement and other income designed to replace lost wages (for example, unemployment compensation and sick pay). The phased-in method for taxing social security benefits assures that only taxpayers who have substantial taxable income from other sources will be taxed on a portion of the benefits they receive. S. Rep. No. 98-23, 98th Cong., 1st Sess. 25, 26 (1983), 1983-2 C.B. 326, 328.

The Omnibus Budget Reconciliation Act of 1993 increased the maximum amount of social security benefits included in gross income for certain higher-income beneficiaries to more closely conform the income tax treatment of these benefits with private pension benefits. Reducing the exclusion for social security benefits for these beneficiaries enhances the equity of the individual income tax system by treating all income the same. H. Rep. No. 103-111, 103rd Cong., 1st Sess. 654 (1993), 1993-3 C.B. 320.

This letter will be available for public inspection after we delete identifying information including names and addresses under the Freedom of Information Act.

I hope this information is helpful. If you need further assistance, please contact me at (202) 622-6010 or Kyle Orsini at (202) 622-6040.

Sincerely,

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

Enclosure