

Summary of Legislation of Interest to SSA Enacted During the 103rd Congress

The 103rd Congress convened on January 5, 1993, and adjourned *sine die* on November 29, 1994 (House) and December 1, 1994 (Senate).

During the 103rd Congress, some 400 bills of interest to SSA were introduced. Of these, nine that affect SSA programs were enacted. This note covers these enactments.

The Omnibus Budget Reconciliation Act of 1993 (H.R. 2264), P.L. 103-66 *(signed on August 10, 1993)*

Tax Provisions

The legislation increases the percentage of Social Security and Railroad Retirement Tier I benefits that may be subject to income taxes from 50 percent to 85 percent for single taxpayers with incomes over \$34,000 and for married taxpayers filing jointly with incomes over \$44,000. It retains present law, under which no more than 50 percent of benefits may be subject to income taxes for single taxpayers with incomes from \$25,000 to \$34,000 and for married taxpayers filing jointly with incomes from \$32,000 to \$44,000. Income for benefit taxation purposes would continue to be the sum of the taxpayer's adjusted gross income, any tax-exempt interest income, and 50 percent of the taxpayer's Social Security or Tier I benefits. Revenues from the additional taxation of benefits will be credited to the Hospital Insurance (HI) Trust Fund. The provision is effective for taxable years beginning after 1993.

The legislation prohibits disclosure of Federal tax return information to any State that does not have in effect a contract with the Secretary of Health and Human Services under which the State provides death certificate information, without restriction on redisclosure, for the purpose of ensuring that Federal benefits or other payments are not erroneously paid to deceased beneficiaries. The provision is effective 1 year after the date of enactment.

It repeals the limitation on the amount of earnings subject to the HI tax beginning with calendar year 1994.

The new law provides a business tax credit for food and beverage establishments equal to the amount of the employer's Social Security tax attributable to covered tips

Legislation

During the 103rd Congress, nine bills of interest to SSA were enacted into law. These bills are listed below; a summary of each is provided in this note.

- P.L. 103-66 (H.R. 2264)
The Omnibus Budget Reconciliation Act of 1993
- P.L. 103-112 (H.R. 2518)
Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, FY 1994
- P.L. 103-123 (H.R. 2403)
Departments of Treasury, Postal Service, and General Government Appropriations Act, FY 1994
- P.L. 103-152 (H.R. 3167)
Unemployment Compensation Amendments of 1993
- P.L. 103-296 (H.R. 4277)
Social Security Independence and Program Improvements Act of 1994
- P.L. 103-333 (H.R. 4606)
Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1995
- P.L. 103-387 (H.R. 4278)
Social Security Domestic Employment Reform Act of 1994
- P.L. 103-432 (H.R. 5252)
Social Security Act Amendments of 1994
- P.L. 103-465 (H.R. 5110)
Uruguay Round Agreements Act

in excess of the tips needed to bring the employee's wages up to the minimum wage. The provision affects neither the amount of tips covered and taxable for Social Security

purposes nor the amount of Social Security taxes credited to the Social Security trust funds. The provision applies to taxes paid after December 31, 1993.

OBRA 1993 also extends the exclusion for income tax and Social Security purposes of amounts paid, or expenses incurred, by an employer under a qualified educational assistance program. The exclusion applies retroactively to expenses incurred after June 30, 1992 (the date the former exclusion expired), and extends through December 31, 1994.

Supplemental Security Income Provisions

Legislation enacted requires States to pay fees for Federal administration of their supplementary Supplemental Security Income (SSI) payments. The fees are \$1.67 for each monthly supplementary payment in fiscal year (FY) 1994, \$3.33 in FY 1995, and \$5.00 in FY 1996. Fees for subsequent years will be \$5.00 or another amount determined by the Secretary to be appropriate. The Secretary may charge States additional fees for services they request that are beyond the level customarily provided in administering State supplementary payments. The provision is effective with respect to federally administered State supplementary payments for months after September 1993.

Provisions permanently excludes State and local relocation assistance from countable income and excludes it from resources for 9 months after it is received. (The exclusions were due to expire May 1, 1994.)

The legislation continues deeming the income and resources of an SSI beneficiary's spouse or parent who is absent from the household because of active military service. It also excludes hostile fire pay from income. The provision was effective October 1, 1993. The new law expands the provisions of present law for continuing to pay benefits to children of military personnel who accompany their parents overseas to include children whose parents are stationed in Puerto Rico and the U.S. territories and possessions. The provision was effective November 1, 1993.

For the first 2 months for which an SSI cost-of-living adjustment is effective, uses the current Federal benefit rate, rather than the benefit rate from the second preceding month under retrospective accounting, to determine the amount of the one-third reduction in SSI benefits. The provision will be effective with respect to benefits paid for months after calendar year 1994.

The legislation excludes from countable income up to \$2,000 annually of income that Indians receive from individually owned trust or restricted lands, beginning January 1, 1994.

It extends through 1994 the targeted jobs tax credit provision, which provides tax credits to employers who hire individuals from any of nine designated groups, including recipients of SSI benefits and disabled persons.

The provision is effective with respect to qualified individuals who begin employment after June 30, 1992, the date the provision of prior law expired, and before December 31, 1994.

Medicare Provisions

The provision extends through FY 1998 the requirement that, upon request, SSA furnish information about employer-provided health insurance coverage of Medicare beneficiaries to the Health Care Financing Administration.

It requires that employers who have group health plans report to the Secretary of Health and Human Services annually (beginning in 1995):

- The name and taxpayer identification number of each individual who elects coverage under the group health plan;
- The type of plan coverage elected, if any;
- The name, address, and identifying number of the group health plan elected by each individual;
- The name and taxpayer identification number of each individual covered by the election;
- The period during which health coverage is available; and
- The name, address, and taxpayer identification number of the employer.

The data collected are to be used to identify third parties responsible for health care costs incurred by Medicare or Medicaid beneficiaries.

Legislation enacted extends through 1998 the present-law provision under which the monthly Part B premium is set at the amount necessary to cover 25 percent of program costs for the aged. Thereafter, the annual percentage increase in the Part B premium will be governed by the Social Security cost-of-living adjustment in the previous year (the limitation on Part B premium increases that applied before 1984).

It reduces the Medicare Part A (Hospital Insurance) premium for aged or disabled individuals who buy in to this protection and who have at least 30 quarters of coverage. The reduction applies to workers, spouses (subject to a 1-year duration-of-marriage requirement), and divorced spouses (subject to a 10-year duration-of-marriage requirement). The premium reduction is 25 percent for 1994, increasing by 5 percent per year until it reaches 45 percent for 1998 and later years. The change applies to current and future Part A beneficiaries and affects monthly premiums for months beginning with January 1994.

Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, FY 1994 (H.R. 2518), P.L. 103-112 (signed October 21, 1993)

The legislation provides FY 1994 funding for SSA's Limitation on Administrative Expenses (LAE) account of \$5.496 billion, including \$320 million earmarked for disability case processing and \$300 million in no-year funds for automation-related investments. This represents an increase of \$200 million for disability case processing from the amount requested by the Administration in the President's budget and a decrease of \$30 million from the amount requested for obligation from the Automation Investment Fund. Of the \$5.496 billion, up to \$1.8 million is available until September 30, 1995, for expenses necessary for the Commission on the Social Security "Notch" Issue, established by P.L. 102-393.

The appropriation provides \$27.3 billion (including funds advanced in the prior year) for the Supplemental Security Income (SSI) program. Of the \$27.3 billion, \$6 million is to be used for SSI outreach demonstration projects.

The Congress also included:

- Authority to fund SSA's work related to the Coal Industry Retiree Health Benefits Act of 1992 (established by P.L. 102-486) from the LAE account; and
- Language that gives recipients of Black Lung benefits a cost-of-living increase in January 1994, even if Federal employees are denied a pay raise.

The reports of the House and Senate Appropriations Committees:

- Express concern about any further deterioration of SSA's ability to process disability cases;
- Note that the General Accounting Office (GAO) has expressed concerns about SSA's automation initiative. The Committees have requested the Office of Technology Assessment (OTA) to review the automation initiative. They request SSA to work with the GAO and OTA and to provide additional information, within 30 days prior to the obligation of 1994 funds; and
- Direct SSA to submit a report to the Committees by December 30, 1993, on the feasibility of establishing a partnership with a not-for-profit institution of higher education for the purpose of offering training in state-of-the-art computer information systems.

The Senate Appropriations Committee report also directs the General Accounting Office to review the cost allocation methodology used by SSA to charge the Medicare Trust Funds for Medicare-related work performed by SSA.

Departments of Treasury, Postal Service, and General Government Appropriations Act, FY 1994 (H.R. 2403), P.L. 103-123 (signed October 28, 1993)

The legislation extends until December 31, 1994, the due date for the final report of the Commission on the Social Security "Notch" Issue. The final report of the 12-member Commission, which was created by P.L. 102-393 to study the notch issue and report its findings to the Congress, was originally due December 31, 1993.

Unemployment Compensation Amendments of 1993 (H.R. 3167), P.L. 103-152 (signed November 24, 1993)

Provision includes an amendment to increase from 3 years to 5 years the period during which the income and resources of an immigrant's sponsor will be "deemed" to the immigrant for purposes of determining the immigrant's eligibility for and the amount of SSI benefits. The provision is effective for the period January 1, 1994, through September 30, 1996.

Emergency Supplemental Appropriations Act of 1994 (H.R. 3759), P.L. 103-211 (signed on February 12, 1994)

The legislation rescinds from the FY 1994 appropriations (P.L. 103-112) \$80 million from the Limitation on Administrative Expenses account and \$10.9 million from the SSI program for SSA's state-of-the-art computing network.

Social Security Independence and Program Improvements Act of 1994 (H.R. 4277), P.L. 103-296 (signed on August 15, 1994)

(Editor's note: An article in the Spring *Bulletin* will cover this legislation in detail.)

Independent Agency

The new law establishes SSA as an independent agency, responsible for the administration of the Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs. SSA is also required to continue to perform its current functions in assisting in the administration of the Medicare program, the Black Lung program, and the Coal Industry Retirees Health Benefits Act.

The independent SSA is to be headed by a Commissioner, appointed by the President within 60 days of

enactment and subject to Senate confirmation, to serve a 6-year term, with the initial term of office ending January 19, 2001. The Commissioner exercises all powers and discharges all duties of SSA, and has authority and control over all SSA personnel and activities. The bill also provides for Presidential appointment and Senate confirmation of a Deputy Commissioner, whose duties and authority are to be prescribed by the Commissioner, to serve a 6-year term, with the initial term of office ending January 19, 2001.

The law also establishes a seven-member, bipartisan Social Security Advisory Board, required to meet at least four times a year, to review and make recommendations to the Commissioner concerning matters of policy; the Board has no role with respect to SSA operations. Board members are to be appointed as follows: Three by the President (no more than two from the same political party), two by the Speaker of the House (with the advice of the Chairman and Ranking Minority Member of the Committee on Ways and Means), and two by the President pro tempore of the Senate (with the advice and consent of the Chairman and Ranking Minority Member of the Committee on Finance). Board members are to serve staggered 6-year terms. Legislation enacted eliminates the requirement of present law for the appointment of a quadrennial Advisory Council on Social Security after the current Advisory Council completes its work.

By November 1, 1994, the Secretary and Commissioner were to transmit a report to the House Committee on Ways and Means and Senate Committee on Finance regarding the progress made in developing the interagency transfer arrangement. By January 1, 1995, the Secretary and the Commissioner were required to enter into a written interagency arrangement for the transfer of appropriate personnel and resources to the independent agency effective March 31, 1995, and to submit the arrangement to the House Committee on Ways and Means, the Senate Committee on Finance, and the General Accounting Office (GAO) by January 1, 1995. GAO is required to submit a report to the Committees evaluating the plan by February 15, 1995.

The independent agency provision becomes effective on March 31, 1995.

Restrictions on Benefits Based on Disability of Substance Abusers

The legislation places new restrictions on Social Security Disability Insurance (DI) and SSI benefit payments to individuals disabled by drug addiction and alcoholism (DA&A) and establishes barriers against a beneficiary's using Social Security or SSI benefits to support an addiction. The DA&A provisions include: time limiting benefits and payments to 36 months; suspending benefits for noncompliance with treatment for substance abuse; strengthening representative payee requirements;

imposing treatment requirements on DI beneficiaries; establishing referral and monitoring agreements in all States; and generally requiring gradual payment of retroactive benefits to substance abusers. The provisions are generally effective 180 days after enactment.

Enactment of the provision requires the following DA&A studies and reports:

- A study of: (1) the feasibility, cost, and equity of requiring representative payees for all DI and SSI beneficiaries who suffer from drug addiction or alcoholism, regardless of whether their addiction is material to their disability; (2) the feasibility, cost, and equity of providing non-cash benefits; and (3) the extent of substance abuse among child recipients and their representative payees. A report on the studies is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1995.
- A report on the Secretary's activities relating to the monitoring and testing of Social Security and SSI DA&A beneficiaries. The report is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1996.
- Demonstration projects designed to explore innovative referral, monitoring, and treatment approaches with respect to Social Security and SSI DA&A beneficiaries who are subject to a treatment requirement. A report on the demonstration projects is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1997.

Various and Miscellaneous Provisions

Legislation enacted includes a number of provisions affecting both the OASDI and SSI programs—such as increasing from \$100 to \$1,000 a year the amount an election worker must be paid for the earnings to be covered under Social Security or Medicare and treating SSI fraud as a felony.

Labor, HHS, and Education Appropriations, FY 1995 (H.R. 4606), P.L. 103-333

(signed on September 30, 1994)

The legislation provides FY 1995 funding for SSA's Limitation on Administrative Expenses (LAE) account of \$5.577 billion, including disability investment funding of \$320 million and automation investment funding of \$97 million.

In addition, the overall appropriations Act reduces SSA's funding for 1995 for procurement reform, rent

savings, and performance awards. These reductions total about \$37 million for SSA, reducing the total appropriations to \$5.540 million.

The new law directs SSA to prepare a report by February 1, 1995, addressing concerns raised by Appropriations Committee members and to include information on short and long term costs and performance goals of planned automation initiatives.

It also urges SSA to consider establishing a Chronic Fatigue Syndrome (CFS) Surveillance advisory committee and to provide a report to the Committee on this project, including the Agency's efforts to investigate the obstacles to disability benefits for persons with CFS.

Social Security Domestic Employment Reform Act of 1994 (H.R. 4278), P.L. 103-387
(signed on October 22, 1994)

Simplification of Employment Taxes on Domestic Service

The legislation raises the threshold for coverage of domestic employees' earnings paid per employer from \$50 per calendar quarter to \$1,000 in calendar year 1994. In calendar years after 1995, this amount will increase in \$100 increments as average wages increase.

- In cases where domestic employees were paid less than \$1,000 in 1994, their employers must report the earnings on form W-2 and the employees will receive credit under Social Security for the wages. (However, no Social Security taxes are payable on these wages.)
- Instead of being treated as agricultural employees, domestic employees on farms operated for profit are treated like other domestic employees and their earnings are subject to the new threshold instead of the threshold applicable to agricultural employees. (Effective in 1994.)
- Beginning with calendar year 1995, domestic employees will no longer be covered under Social Security in any year in which they are under age 18 unless their principal occupation is household employment.
- In cases where the employer has only domestic employees, wages paid to those employees will be reported annually, rather than quarterly, on the employer's personal income tax return, and Social Security employer and employee taxes will be subject to quarterly estimated tax payment requirements. (Effective January 1995.)

The legislation allocates a greater portion of the OASDI tax rate (0.94 percent instead of 0.60 percent) to the DI

Trust Fund for 1994 through 1996. For 1997 through 1999, the DI reallocation will be increased from the currently scheduled 0.60 percent to 0.85 percent. Beginning with 2000, the DI Trust Fund allocation will be 0.90 percent instead of the currently scheduled 0.71 percent. These provisions are effective with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

The law extends the current prisoner nonpayment provision to all individuals confined to a jail, prison, or other penal institution or correctional facility pursuant to a conviction of a crime punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed). Suspension will also apply to beneficiaries confined by court order in an institution at public expense in connection with a finding that the individual is: guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year; not guilty of such an offense by reason of insanity or by reason of similar factors (such as a mental disease, a mental defect, or mental incompetence); or incompetent to stand trial for such an offense.

The law also provides that an individual shall not be considered to be confined in a jail, prison, or other penal institution or correctional facility if he or she is residing outside the institution at no expense (other than the cost of monitoring) to the institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual. These provisions are effective with respect to benefits for months beginning after 90 days after enactment.

The legislation authorizes SSA to use certain delinquent debt collection procedures available to other Federal agencies, but not to SSA, under the Debt Collection Act of 1982. The procedures include reporting delinquent debtors to credit agencies, contracting with private debt collection agencies, and recovering debts by administrative offset of other Federal payments to which the debtor may be entitled. The procedures may be applied only if the overpayment was paid to a person after he or she attained age 18, the debt is not recoverable by other means provided by the Social Security Act, and the debtor is no longer a beneficiary. The provision is effective with respect to collection activities begun on or after enactment and before October 1, 1999.

The provision requires nursing homes to notify SSA within 2 weeks after they admit SSI recipients (effective October 1, 1995).

The legislation requires SSA to conduct a study on the rising costs payable from the Disability Insurance (DI) Trust Fund. In conducting the study, SSA must determine the relative importance of the increased numbers of applications, higher allowance rates, and decreased benefit termination rates in increasing the DI program costs. The results of the study must be reported to the House Committee on Ways and Means by October 1, 1995.

Social Security Act Amendments of 1994 (H.R. 5252), P.L. 103-432 (signed on October 31, 1994)

The legislation provides that the criteria used for determining disability of children who are under age 18 would apply to any individual who is under age 18 (that is, individuals who do not meet the SSI definition of a child because they are married or the head of a household). Effective for determinations made on or after October 31, 1994.

The enacted provision requires the Secretary of HHS to establish and implement within 1 year after date of enactment a method for obtaining information from newly eligible Medicare beneficiaries that may be used to determine whether they may be eligible as Qualified Medicare Beneficiaries and for transmitting this information to the States in which they live.

The law requires the Secretary of HHS to develop (1) indicators of the rate at which and degree to which families depend on welfare receipt and (2) predictors of welfare, to assess the data needed to report annually on the indicators and predictors, to provide an interim report to congressional committees by October 31, 1996, on conclusions resulting from such development and assessments, and to report annually thereafter, covering AFDC, SSI, food stamps, and general assistance programs administered by State and local governments.

The legislation also makes a number of technical corrections in previously enacted legislation.

Uruguay Round Agreements Act (H.R. 5110), P.L. 103-465 (signed on December 8, 1994)

Enacted legislation permits a person to request voluntary withholding from certain Federal payments, including Social Security benefits, for income tax purposes. Withholding will be in accordance with specified percentages as permitted by the IRS and requested by the person. Effective with respect to payments made after December 31, 1996.

The legislation increases from 50 to 85 percent the amount of Social Security benefits which are subject to mandatory Federal income tax withholding because they are paid to nonresident aliens. It applies to benefits paid in taxable years ending after December 31, 1994.

The law requires that, in order to claim a dependency exemption for Federal income tax purposes, a taxpayer must include the TIN/SSN for that dependent on his or her return, regardless of age. (Current law requires the TIN/SSN for claimed dependents who are at least 1-year old.) Effective for taxable years beginning after December 31, 1994; with the exception that it does not apply to returns for taxable years beginning in 1995 with regard to individuals born after October 31, 1995, or to returns for taxable years beginning in 1996 for individuals

born after November 30, 1996. The provision amends the Employee Retirement Income Security Act of 1974 by modifying the maximum guaranteed pension benefit payable in disability cases to participants in terminated employee pension benefit plans, that is, plans which have been terminated and whose participants are receiving payments from the Pension Benefit Guaranty Corporation. Under this provision, the maximum guaranteed benefit shall not be reduced because of the age of the participant if the participant demonstrates that SSA has determined that he/she meets the definition of disability in the Social Security Act.