

Solutions, Strategies, Answers

Newsletter of the 18 Social Security Administration offices in
Bucks, Chester, Delaware, Lehigh, Monroe, Montgomery, Northampton, and Philadelphia counties



September 2024

Issue 147



Tipping Points

If you're someone who works in the service industry, you know the topic of "tips" is often in the news. So we thought we would look at how Social Security treats tips, both past and present.

Cash tips were first covered as wages under Social Security in 1965. Workers were required to pay the employee share of Social Security (FICA) taxes on the tips, but their employers did not pay a Social Security tax. This provision was a compromise between the views of groups representing employers and tipped employees.

Employer groups objected to paying FICA taxes on payments on which they had no knowledge, possession, custody, or control. They suggested that SSA treat tips as self-employment income. Employee groups favored FICA coverage for tips, but objected to treating tips as self-employment income. Treating tips as self-employment income would remove employers' responsibility for reporting employees' tips as wages, and employees would have to pay taxes at the self-employed rate, which is higher than the employee rate.

The law changed in 1977 to require employers to pay their share of FICA taxes up to the minimum wage for all employees, including those who receive tips. In 1988 the law changed again to require employers to pay FICA taxes on the full amount of covered tips.

Today workers must pay FICA taxes on all cash tips totaling \$20 or more in a month. They should report tips timely to their employer so that their earnings record is accurate.

Publication 531 (Rev. December 2023) ([irs.gov](https://www.irs.gov))



When Can an Overpayment Be Waived?

When a Social Security overpayment is not recovered, the entire system bears the costs. Even so, SSA's laws and regulations protect overpaid individuals.

When notified of an overpayment, a beneficiary may appeal the fact of the overpayment, or alternatively request that we waive recovery of the incorrect amount. SSA may waive recovery if the person is without fault in creating the overpayment ... and recovery would either defeat the purpose of the Social Security Act or be against equity and good conscience.

The term *defeat the purpose of the Social Security Act* means that the person needs all or most of their income to meet ordinary and necessary living expenses. The term *against equity and good conscience* means that the overpaid person changed their position for the worse or gave up a valuable right because of reliance on a notice that a Social Security benefit would be paid.

We believe these provisions strike a reasonable balance in protecting the interests of both overpaid individuals and current and future beneficiaries. The provisions relieve the repayment obligation for people who cannot afford to repay or where recovery would be inequitable.

At the same time, the rules require people who are financially able to repay an overpayment to do so, even though they were not at fault in creating it. Therefore, the waiver provisions prevent inappropriate losses to the Social Security trust funds.

[Waive repayment of overpaid Social Security benefits | SSA](#)

Why Are These Kids Smiling?



Oh, c'mon, you know why. It's September! Back to school! So, kids of all ages, in elementary or secondary school, get ready for another fun year of the 3 Rs and more. Why is this in a Social Security newsletter, you ask? Well, just to show that although summertime is fun, being a student brings certain "benefits" even beyond the classroom:

Social Security

Children of retired or disabled beneficiaries, as well as children whose parent(s) died but worked long enough, can receive benefits up to **age 18**. But children who are full-time students are entitled until **age 19**, or until they complete their secondary education, whichever comes first. Secondary education covers grade 12 and below.

A student is in **full-time attendance** if he or she:

- **attends** an elementary or secondary level school as determined by the law of the state or other jurisdiction in which the school is located, *and ...*
- **is enrolled** in a day or evening non-correspondence course at least 13 weeks in duration, and is scheduled to attend at least 20 hours weekly, *and ...*
- **carries a subject load** considered full-time for day students under the school's standards and practices.

[Students \(ssa.gov\)](https://ssa.gov)

Supplemental Security Income (SSI)

Under SSI rules, income from work generally decreases a person's benefit. However, the **Student Earned Income Exclusion** allows us to not count some earnings for a SSI recipient who is under age 22 and regularly attending school. We can exclude earnings up to \$2,290 monthly, with the cap for the year set at \$9,230.

Regularly attending school means the student takes one or more courses and attends classes in college at least eight hours weekly under a semester or quarterly system. If not attending college, a person can also qualify under certain conditions if in grades 7-12, in a training course, or if being home-schooled.

[SSI Spotlight on Student Earned Income Exclusion \(ssa.gov\)](https://ssa.gov)

Want to subscribe? Email either

Richard.Gaudiosi@ssa.gov

or

Jessica.M.Silvent@ssa.gov



Spotlight on ... SSI Spotlights

The needs-based Supplemental Security Income (SSI) program provides monthly cash benefits and Medicaid to people who are disabled or who are age 65 or older. They also must meet income and resource limits. You may have run into some complex situations with your clients, so perhaps our online **SSI Spotlights** page can help. Here's a sampling of the 32 topics covered there:

Trusts Is the trust revocable or irrevocable? What about Special Needs Trusts and Pooled Trusts?

The One-Third Reduction Provision When a SSI recipient lives in another person's household, what happens if the recipient is not paying a fair share of expenses?

Burial Funds How much money can a recipient set aside for burial? How can the funds be excluded from counting as a resource?

Special SSI Rule for Blind People Who Work Expenses such as transportation, taxes, and attendant care services can reduce a worker's countable earnings.

Interpreter Services SSA will provide free interpreter services if an individual needs language assistance, including sign language. Read more about it here.

Dedicated Accounts for Children When a child is due more than six months of retroactive payments, the child's representative payee may have to open a separate bank account.

Continued Medicaid for People Who Work Find out how Medicaid continues when earnings prohibit payment.

SSI Benefits for Noncitizens How can they qualify?

You can find all the Spotlights at:

[Links to SSI Spotlights \(ssa.gov\)](https://ssa.gov)

Save The Date – October 10



That's when the 2025 Social Security Cost-of-Living Adjustment will be announced