

Social Security

Program Operations Manual System (POMS)

TN 45 (01-11)

RS 00605.362 Windfall Elimination Provision (WEP) Exceptions

A. Exception based on Years of Coverage (YOC)

Workers who have 30 YOCs are fully exempt from the Windfall Elimination Provision (WEP). Workers with 21 to 29 YOCs are eligible for a partial exemption.

Use all wages on the earnings record, including military service wage credits, from 1937 to the present to determine the total number of YOCs for WEP purposes. For policy and procedures when military service wages are needed to determine YOCs, see RS 01701.000. When you input alleged military service, the system considers the military service when calculating the YOCs. Be especially alert when a New Start 1978 Primary Insurance Amount (PIA) computation applies.

1. Amount needed per YOCs

Use the following chart to manually determine the number of YOCs beginning with 1951. To obtain the pre-1951 YOC, divide total pre-1951 wages by \$900. Drop any remainder. The total pre-1951 YOC cannot exceed 14.

Amount Needed Per YOC

Year	Amount	Year	Amount	Year	Amount
1951	\$900.00	1952	\$900.00	1953	\$900.00
1954	\$900.00	1955	\$1050.00	1956	\$1050.00
1957	\$1050.00	1958	\$1050.00	1959	\$1200.00
1960	\$1200.00	1961	\$1200.00	1962	\$1200.00
1963	\$1200.00	1964	\$1200.00	1965	\$1200.00
1966	\$1650.00	1967	\$1650.00	1968	\$1950.00
1969	\$1950.00	1970	\$1950.00	1971	\$1950.00
1972	\$2250.00	1973	\$2700.00	1974	\$3300.00
1975	\$3525.00	1976	\$3825.00	1977	\$4125.00

Year	YOCs	Amount	First Factor	In Benefit Formula	Year	Amount
1978		\$4425.00	1979		1980	\$5100.00
1981		\$5550.00	1982		1983	\$6675.00
1984		\$7050.00	1985		1986	\$7875.00
1987		\$8175.00	1988		1989	\$8925.00
1990		\$9525.00	1991		1992	\$10350.00
1993		\$10725.00	1994		1995	\$11325.00
1996		\$11625.00	1997		1998	\$12675.00
1999		\$13425.00	2000		2001	\$14,925.00
2002		\$15,750.00	2003		2004	\$16,275.00
2005		\$16,725.00	2006		2007	\$18,150.00
2008		\$18,975.00	2009 – 2011		2012	\$20,475.00
2013		\$21,075.00	2014		2015–2016	\$22,050

2. Benefits payable beginning 01/89, workers with 21 - 29 years of coverage

Beginning with benefits payable for 01/89, workers with 21 - 29 years of coverage are eligible for a partial exemption as follows:

YOCs	First Factor In Benefit Formula
30 or more	90 percent
29	85
28	80
27	75
26	70
25	65
24	60
23	55
22	50
21	45
20 or less	40 percent

3. Benefits payable 1986-1988 for workers with 26-29 YOCs

For benefits payable 1986-1988, the partial exemption affects workers with 26-29 YOCs as follows:

YOCs	First Factor In Benefit Formula
29	80 percent
28	70
27	60
26	50
25 or less	40 percent

NOTE: When the worker qualifies for both the phase-in based on age and the exception based on YOCs, use whichever yields the higher PIA.

B. Exceptions based on employment or pension basis

The following exceptions to WEP are based on the worker's employment or the basis used to pay the pension.

1. Federal employees who performed service on 1/1/84, and who became newly covered under Social Security on 1/1/84, under the mandatory coverage provision in P.L. 98-21 are exempt from WEP for **federal** pensions received. (For more information on the policy for Federal civilian employment, see RS 01901.340B.)
2. An employee of a nonprofit organization who was exempt from Social Security coverage on 12/31/83, and who became covered **for the first time** as an employee of that organization on 1/1/84 under the mandatory coverage provision of P.L. 98-21, is exempt from WEP for **any pension received from that nonprofit organization.**
3. The following are not subject to WEP:
 - o Payments based on earnings under the Railroad Retirement Act;
 - o Payments based solely on domestic or foreign non-covered employment before 1957; or
 - o Workers' compensation (WC) payments under Federal or State law. However, pension payments that are "like" or "in lieu of" WC payments are not exempt. (For more information about the Federal Employee's Compensation Act, see RS 00605.372A.1.)

C. Exception based on early-out or discontinued service

1. Meeting the early-out or discontinued service exception

WEP does not affect workers eligible for a pension before 1986 under an early-out option if the worker meets all requirements for the pension other than having actually filed. (For the development required for early-out or discontinued service, see RS 00605.366D.6.)

2. Deferred Retirement Option Plans (DROP)

DROPs allow an employee who would be eligible to retire and receive benefits under an employer's defined benefit retirement plan to continue to work. Instead of having the continued compensation and additional years of service taken into account for purposes of the defined benefit formula, the employee has a sum of money credited to a DROP account during each year of the continued employment. DROPs can take many forms and can be either a separate plan or part of the defined benefit plan.

WEP may or may not apply to a worker's DROP if he or she meets the exception to WEP based on early-out or discontinued service in RS 00605.362C.1. (in this section). If an individual receives a DROP:

- a. Search the legal precedent opinions in POMS Part 15 (PR) to determine how to treat that particular DROP;
- b. if a legal opinion has not been rendered on the DROP in question, request a regional OGC determination on whether the DROP is a separate pension or is part of the defined benefit retirement plan; and
- c. forward your request and copies of the pertinent material to the Assistant Regional Commissioner (ARC), Management and Operations Support (MOS) that has jurisdiction of the state that provides the DROP in question.

Apply the Early-Out or Discontinued Service exemption to the DROP as follows:

- If the DROP is a separate pension plan, the early-out or discontinued service exemption will apply only to the pension plan that the worker was eligible to receive before 1986, if all the requirements in RS 00605.362C.1. (in this section) are met.
EXAMPLE: If the worker was eligible to receive the defined benefit plan before 1986 and eligible to receive the DROP after 1985, WEP would apply only to the DROP.
- If the DROP is a part of the defined benefit retirement plan, payments from both plans are considered one pension for WEP purposes and the early-out or discontinued service exemption will apply to the combined payments if all the requirements in RS00605.362C.1. (in this section) are met. To determine the combined pension amount, see RS 00605.364C.3.
- If there was no eligibility to either the defined benefit retirement plan or the DROP prior to 1986, WEP would apply to the combined payments. To determine the combined payment amount, see RS 00605.364C.3.

3. Reopening prior DROP determinations

If you applied the WEP based on the prior policy that all DROPs were pension plans separate from the defined benefit plan and the DROP is part of the defined benefit plan, you may reopen the determination to apply WEP under the rules of administrative finality in GN 04001.000.

D. Exception based on service as a Minister

A monthly periodic payment to a minister based on service as a minister is not considered a pension for purposes of WEP.

E. Exception based on Military Service

For instructions on when the WEP exception applies to military reservist pensions, see RS 00605.383 Exclusion of Military Reservists from WEP.

F. Exception based on Foreign Pension

For instructions on when the WEP exception applies to pensions based on totalization agreements, see GN 00307.290 Evidence of Foreign Pensions and the WEP RS 00605.386 Exclusion of Certain Totalization Benefits from WEP.

G. References

- MSOM MCS 002.003 WEP Coding on MCS Screens
- RS 00605.374 WEP Coding and Post-Entitlement Alerts

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0300605362>

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