

(d) The declining market for retreaded passenger car tires.

(7) Are there any abuses occurring in the distribution, promotion, sale or manufacture of tires that are not addressed by the Guides? If so, what mechanisms should be explored to address such abuses (e.g., consumer education, industry self-regulation, Guide amendment)?

#### List of Subjects in 16 CFR Part 228

Advertising, Automobile tires, Trade practices.

**Authority:** 15 U.S.C. 41–58.

By direction of the Commission,  
Commissioner Harbour not participating.

**Donald S. Clark,**  
Secretary.

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Regulation No. 4]

**RIN 0960–AF62**

#### Amendments to Annual Earnings Test for Retirement Beneficiaries

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We are providing notice of proposed rulemaking to conform to the “Senior Citizens’ Freedom to Work Act of 2000”. This legislation was enacted on April 7, 2000, and became retroactively effective on January 1, 2000. It eliminates the Social Security annual earnings test for retirement beneficiaries, starting from the month in which they reach full retirement age. Before the passage of this legislation, persons reaching full retirement age were subject to an earnings test until the month in which they attained age 70.

**DATES:** To ensure that your comments are considered, we must receive them no later than October 24, 2003.

**ADDRESSES:** You may give us your comments by using: our Internet site facility (i.e., Social Security Online) at <http://www.socialsecurity.gov/regulations/>, e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov), telefax to (410) 966–2830 or by sending a letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703. You may also deliver them to the Office of Process and Innovation Management Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard,

Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

**ELECTRONIC VERSION:** The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: [http://www.access.gpo.gov/su\\_docs/aces/aces/140.html](http://www.access.gpo.gov/su_docs/aces/aces/140.html). It is also available on the Internet site for SSA (i.e., “Social Security Online”) at <http://www.socialsecurity.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Dorothy Skipwith, Social Insurance Specialist, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–4231 or TTY (410) 966–5609. For information on eligibility or filing benefits: Call our national toll-free numbers, 1–800–772–1213 or TTY 1–800–325–0078, or visit our Internet web site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background

In addition to the revisions necessitated by the changes in the “Senior Citizens’ Freedom to Work Act of 2000,” Pub. L. 106–182, which eliminated the annual earnings test for persons reaching full retirement age, we are proposing changes necessitated by the “Social Security Amendments of 1983,” Pub. L. 98–21. This legislation will increase the full retirement age for persons born in 1938 or later in incremental amounts, with a full 2-year increase in full retirement age for persons born in 1960 or later. We are also proposing the revision of the existing regulatory sections, numbered below, to present them in plainer language and to update the examples.

##### Explanation of Proposed Changes

The following is a brief summary of the sections we propose to revise and the changes to each of them.

**Section 404.338 Widow’s and widower’s benefits amounts.** This section describes the benefit amount a widow or widower may expect to receive relative to the benefit amount of the deceased insured spouse. The benefit amount for the widow or widower may include increased benefits based on delayed retirement credit of the deceased insured spouse, or reduced benefits based on the deceased insured spouse retiring before reaching full

retirement age. This section also includes discussion on widow or widower benefits based on a special primary insurance amount when the insured died before reaching age 62. We propose to revise this section to reflect the change in full retirement age.

#### **Sections 404.415 and 404.416**

**Deductions because of excess earnings; annual earnings test. Amount of deduction because of excess earnings.** We propose to combine sections §§ 404.415 and 404.416 into a revised section § 404.415, “Deductions because of excess earnings,” because the topics are closely related and overlapping.

Revised section § 404.415 would explain the effect of excess earnings on the benefits of:

1. An insured person caused by his/her excess earnings.

2. An auxiliary beneficiary because of the excess earnings of the insured person on whose record he/she draws benefits.

3. An auxiliary beneficiary because of his/her own excess earnings, which reduce only that beneficiary’s benefits.

This revised section § 404.415 would also reflect the legislated changes in full retirement age and annual earnings test.

**Section 404.428 Earnings in a taxable year.** This section clarifies the method for calculating a beneficiary’s or prospective beneficiary’s annual earnings with respect to the annual earnings test. It also clarifies when the claimant may use a taxable year other than a calendar year, and the number of months in a taxable year used in the earnings test calculation for the year of death. This section also defines which reporting year wage earners and self-employed individuals must use relative to the year in which the earnings were earned.

We propose to revise the section to reflect changes in the annual earnings test and full retirement age.

#### **Section 404.429 Earnings; defined.**

This section defines wages and net earnings from self-employment for earnings test purposes. It also lists the self-employment occupations that are included in “net earnings from self-employment” for earnings test purposes. This section also defines the allowable level of a claimant’s involvement and performance in an ongoing business in determining whether the claimant’s retirement actually has taken place.

We propose to revise the section to reflect the new annual earnings test and full retirement age legislation.

**Section 404.430 Excess earnings defined for taxable years ending after December 1972; monthly exempt amount defined.** This section defines the maximum monthly and annual