

INTERNAL REVENUE SERVICE

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The Honorable Arlen Specter
United States Senator
Regional Enterprise Tower
425 6th Avenue, Suite 1450
Pittsburgh, PA 15219

Attention: Adam Pope

Dear Senator Specter:

This letter responds to your inquiry dated January 13, 2005, on behalf of your constituent, . He asked for the name of a bill that he says taxes up to eighty percent of a social security recipient's annuity based on the income of both spouses and the year the bill passed. He says this law puts an unjust marriage penalty tax on married senior citizens and wants to bring it to the attention of legislators.

may be referring to section 86 of the Internal Revenue Code. The Congress enacted this provision in 1983 as part of the Social Security Amendments of 1983, Pub.L. 98-21. Subject to certain limitations, this provision taxed social security benefits above a certain base amount up to a maximum of one-half of the taxpayer's total social security benefit. In some cases, the income of the other spouse can affect the taxation of the recipient spouse's social security benefits.

This section reversed a longstanding practice of excluding social security benefits from income. In committee reports, the Congress concluded that social security benefits are like the benefits received under other retirement systems and should be taxed. It also concluded that taxing social security benefits can help strengthen the social security system financially.

The Omnibus Budget Reconciliation Act of 1993 (OBRA), Pub.L. 103-66 amended section 86 for 1994 and later years, by taxing up to 85 percent of the taxpayer's social security benefit after applying certain limitation amounts.

While _____ is correct that in some cases a recipient of social security benefits may have to pay more tax because of his or her spouse's income, a married taxpayer does have a higher base limitation amount not subject to tax than a single person.

I hope this information is helpful. As you requested, I have enclosed a copy of letter to you. If you have additional questions, please call me at _____.

Sincerely,

Nancy J. Marks
Division Counsel/Associate Chief Counsel
(Tax Exempt and Governmental Entities)

Enclosure