

4. Section 416.570 is amended by revising the third sentence to read as follows:

§ 416.570 Adjustment-general rule.

* * * Absent a specific request from the person from whom recovery is sought, no overpayment made under title II or XVIII of the Act will be recovered by adjusting SSI benefits.
* * *

5. Section 416.572 is added to read as follows:

§ 416.572 Are title II benefits subject to adjustment to recover title XVI overpayments?

(a) *Definitions*—(1) *Cross-program recovery*. Cross-program recovery is the process that we will use to collect title XVI overpayments from benefits payable to you in a month under title II of the Social Security Act.

(2) *Benefits payable in a month*. For purposes of this section, benefits payable in a month means the amount of title II benefits you would actually receive in that month. It includes your monthly benefit and any past due benefits after any reductions or deductions listed in § 404.401(a) and (b) of this chapter.

Example: A person is entitled to monthly title II benefits of \$1000. The first benefit payment the person would receive includes past-due benefits of \$1000. The amount of benefits payable in that month for purposes of cross-program recovery is \$2000. The monthly benefit payable for subsequent months is \$1000. If \$200 would be deducted from the person's title II benefits in a later month because of excess earnings as described in §§ 404.415 and 404.416 of this chapter, the benefit payable in that month for purposes of cross-program recovery would be \$800.

(3) *Not currently eligible for SSI cash benefits*. This means that a person is not receiving any cash payment, including State supplementary payments, under any provision of title XVI of the Act or under section 212(b) of Pub. L. 93-66 (42 U.S.C. 1382 note).

(b) *When we may collect title XVI overpayments using cross-program recovery*. (1) We may use cross-program recovery to collect a title XVI overpayment you owe if:

(i) You are not currently eligible for SSI cash benefits, and
(ii) You are receiving title II benefits.
(2) We will not start cross-program recovery if:

(i) You are refunding your title XVI overpayment by regular monthly installments, or
(ii) We are recovering a title II overpayment by adjusting your title II benefits under § 404.502 of this chapter.

(c) *Notice you will receive*. Before we collect an overpayment from you using

cross-program recovery, we will send you a written notice that tells you the following information:

(1) We have determined that you owe a specific overpayment balance that can be collected by cross-program recovery;

(2) We will withhold a specific amount from the title II benefits payable to you in a month (see paragraph (e) of this section);

(3) You may ask us to review this determination that you still owe this overpayment balance; and

(4) You may request that we withhold a different amount (the notice will not include this information if paragraph (e)(2) of this section applies).

(d) *When we will begin cross-program recovery*. We will begin collecting the overpayment balance by cross-program recovery no sooner than 30 calendar days after the date of the notice described in paragraph (c) of this section.

(1) If within that 30-day period you pay us the full overpayment balance stated in the notice, we will not begin cross-program recovery.

(2) If within that 30-day period you ask us to review our determination that you still owe us this overpayment balance, we will not begin cross-program recovery before we review the matter and notify you of our decision in writing.

(3) If within that 30-day period you ask us to withhold a different amount than the amount stated in the notice, we will not begin cross-program recovery until we determine the amount we will withhold. This paragraph does not apply when paragraph (e)(2) of this section applies.

(e) *Rate of withholding*. (1) We will collect the overpayment at the rate of 10 percent of the title II benefits payable to you in any month, unless:

(i) You request and we approve a different rate of withholding, or

(ii) You or your spouse willfully misrepresented or concealed material information in connection with the overpayment.

(2) If you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, we will collect the overpayment at the rate of 100 percent of the title II benefits payable in any month. We will not collect at a lesser rate. (See § 416.571 for what we mean by concealment of material information.)

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-108522-00]

RIN 1545-AY25

Recognition of Gain on Certain Transfers to Certain Foreign Trusts and Estates; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking that was published in the **Federal Register** on Monday, August 7, 2000 (65 FR 48198) relating to the recognition of gain on certain transfers to certain foreign trusts and estates.

FOR FURTHER INFORMATION CONTACT: Karen A. Rennie Quarrie at (202) 622-3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under section 684 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG-108522-00), that was the subject of FR Doc. 00-19896, is corrected as follows:

§ 1.684-3 [Corrected]

On page 48202, column 1, § 1.684-3(f), the first line of *Example 1*, the language "Example 1. Transfer to owner trust. In" is corrected to read "Example 1. Transfer to grantor trust. In".

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

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