

## TOP TEN MYTHS OF SOCIAL SECURITY

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*In this article, Professor Kaplan exposes the ten biggest myths surrounding the Social Security program as a means of evaluating potential budget reform proposals affecting this program. Professor Kaplan begins by noting the resiliency with which the Social Security program has deflected budget-cutting pressures. Next, Professor Kaplan identifies and then debunks each of the ten myths. Finally, Professor Kaplan concludes that the current level of Social Security benefits could be justifiably reduced, that certain eligibility requirements for benefits could be legitimately narrowed, and that certain taxes on recipients could be reasonably extended.*

For over a decade now, major attention has been paid to the federal government's budget deficit. Congress began this focus in 1982 when it passed the Tax Equity and Fiscal Responsibility Act.<sup>1</sup> This act purported to raise revenues by \$100 billion over three years,<sup>2</sup> an amount that was to be matched by cuts in federal expenditures. Those spending cuts never materialized,<sup>3</sup> and another major tax-raising law was then enacted as part of the Deficit Reduction Act of 1984.<sup>4</sup> Other measures followed,<sup>5</sup> including the massive Omnibus Budget Reconciliation Act of 1993.<sup>6</sup> Each of these enactments focused on one or more of the same elements of the budget deficit equation: revenues (also known as "taxes"), defense spending, domestic non-

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1. Pub. L. No. 97-248, 96 Stat. 324 (1982).

2. H.R. REP. NO. 404, 97th Cong., 1st Sess. 79 (1981), *reprinted in* 1982 U.S.C.C.A.N. 781, 849.

3. *See* C. EUGENE STEUERLE, *THE TAX DECADE* 61 (1992).

4. Pub. L. No. 98-369, 98 Stat. 494 (1984). This statute also cut spending in various areas. *See id.* §§ 2001-2907, 98 Stat. at 1057-1210.

5. *See, e.g.,* Revenue Act of 1987, Pub. L. No. 100-203, 101 Stat. 1330; Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, 103 Stat. 2106; Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, 104 Stat. 1388.

6. Pub. L. No. 103-66, 107 Stat. 312 (1993).

mandated spending, and the federal health care entitlement programs (Medicare and Medicaid).<sup>7</sup>

The one constant during these debates has been the political untouchability of Social Security. All forms of federal spending have their detractors and their defenders, but Social Security is unique among government programs in being described as “the third rail of American politics,”<sup>8</sup> meaning that any politicians who dare touch it will be electrocuted, politically speaking. Even the reform-minded Republicans elected in 1994 declared Social Security to be “off the table” in their efforts to balance the federal budget.<sup>9</sup> Nevertheless, it is becoming clearer every year that the “third rail” of Social Security must in fact be touched if the federal government’s budget deficit is to be effectively contained.<sup>10</sup> Thus far, however, the invincibility of the Social Security program remains unabated.

The purpose of this article is to examine the principal myths surrounding the Social Security program as a prelude to understanding budget reform proposals that might emerge affecting this program. As the Kerrey-Danforth Commission Study revealed, Social Security must contribute to the ongoing effort to bring the federal budget deficit under control.<sup>11</sup> How that is accomplished will, in many ways, depend upon the resiliency of what might be described as the “Top Ten Myths of Social Security.”

## I. There Is a Trust Fund

There is probably no single, more enduring myth among Americans than the existence of some separately constituted Social Security trust fund. In public opinion surveys and collections of anecdotes, Americans, particularly older Americans, genuinely believe that there is an accumulation of funds in some dedicated account somewhere

7. See e.g., Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §§ 13201-13243, 13501-13571, 13611-13625, 107 Stat. 312, 457-529, 572-609, 7622-36 (raising taxes, cutting Medicare spending, and cutting Medicaid spending, respectively).

8. Sarah Neville, *Oregon May Hold the Key to Public Acceptance of Health Care Rationing*, WASH. POST, July 11, 1995, at A06.

9. Michael Wines, *The 104th Congress: Balanced Budget: Budget Measure Is Delayed Again in Angry Senate*, N.Y. TIMES, Mar. 2, 1995, at 1.

10. See BIPARTISAN COMM’N ON ENTITLEMENT & TAX REFORM, FINAL REPORT TO THE PRESIDENT 22-24, 216-38 (1995).

11. *Id.* at 22-24, 32-33.

that consists of genuine financial assets.<sup>12</sup> Such a fund does not exist and was never envisioned even when Social Security was created.<sup>13</sup> Quite to the contrary, Social Security collects revenues from a payroll tax on current workers. That payroll tax is 12.4%—split between the employee and the employer—of a worker's earnings, imposed on earnings up to an annually adjusted cap.<sup>14</sup> For 1995, that cap was \$61,200.<sup>15</sup> Workers earning above this cap do not pay Social Security taxes. These tax revenues, however, do not get placed into some isolated fund. Instead, the program uses these revenues to pay benefits to current beneficiaries, and that has always been the program's operative design.<sup>16</sup>

At the present time, Social Security brings in revenues in excess of the amounts needed to pay benefits to current recipients.<sup>17</sup> In 1995, for example, Social Security revenues were \$390 billion, while benefits were only \$332 billion.<sup>18</sup> This \$58 billion difference, or "surplus," is used *currently* by the federal government to pay other federal expenditures; e.g., defense, other domestic spending, and interest on the national debt.<sup>19</sup> To be sure, the federal government does not simply take this money without obligating itself to repay it in the future. In fact, the federal government *does* obligate itself to repay those funds to the Social Security program, with interest, at a regular market rate.<sup>20</sup> But no funds accumulate in some Social Security trust account. Rather, it is simply a bookkeeping entry, recording the fact that the federal government has taken the currently generated surplus and has given obligations that are essentially tantamount to government IOU's.<sup>21</sup> In some sense, this government IOU is the fiscal equivalent of a U.S. gov-

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12. See, e.g., George J. Church & Richard Lacayo, *Social Insecurity*, TIME, Mar. 20, 1995, at 24, 29; Michael Kinsley, *The Best Way to Fix Medicare*, TIME, Sept. 4, 1995, at 24.

13. MICHAEL J. BOSKIN, TOO MANY PROMISES: THE UNCERTAIN FUTURE OF SOCIAL SECURITY 7-8, 126 (1986); Kinsley, *supra* note 12, at 24.

14. I.R.C. §§ 3101(a), 3111(a), 3121(a) (1995); 42 U.S.C. § 430 (Supp. 1995).

15. Spencer Rich, *Plan Deepens Cuts for Future Retirees; Separate Social Security Panel Appears Split*, WASH. POST, May 22, 1995, at A21.

16. *Social Security Q&A*, BOSTON GLOBE, June 18, 1995, at 17.

17. David Steinberg, *Don't Tamper with Social Security*, S.F. EXAMINER, July 29, 1995, at C-7.

18. See Church & Lacayo, *supra* note 12, at 28.

19. See *id.* at 27; see also BIPARTISAN COMM'N ON ENTITLEMENT & TAX REFORM, *supra* note 10, at 4.

20. Church & Lacayo, *supra* note 12, at 26; see BOSKIN, *supra* note 13, at 7-8, 126.

21. Carolyn Lochhead, *Trust Fund Myth Sank Budget Plan—Social Security Is Spent, Not Saved*, S.F. CHRON., Mar. 6, 1995, at A1.

ernment bond. Indeed, even if there were a bona fide "trust fund," Social Security's need for absolute safety of principal and predictable convertibility into cash would probably compel it to invest in the world's safest security—namely, U.S. government obligations. But the point remains that there is no single accumulation of marketable government securities, nor is there some wad of money sitting in some Federal Reserve Bank account.<sup>22</sup>

To be fair, one source of the confusion is the practice of the federal government reporting the status of Social Security's "trust fund."<sup>23</sup> These reports show the difference between current revenues and current outlays for the Social Security program. These reports also show how long those streams of income and expenditures are expected to remain in balance and how they will eventually switch over and begin producing net deficits.<sup>24</sup> These reports are replete with statistical projections, demographic assumptions, and the economic consequences of those factors. *But at no time do these reports verify the existence of any separately constituted monetary accumulation that can properly be called a trust fund.*

## II. Social Security Does Not Increase the Federal Budget Deficit

A myth related to the preceding Social Security trust fund myth is that Social Security does not "contribute" or aggravate the federal budget deficit in any manner. In a sense, this assertion is factually correct. *At the present time*, Social Security brings in more money than it pays out.<sup>25</sup> To that extent, therefore, the program produces a net increase in revenues, which operates to reduce what the government's budget deficit would otherwise look like. For example, in the preceding section, it was noted that Social Security brought in revenues in excess of beneficiary payments of some \$58 billion in 1995. Were that \$58 billion segregated into some sort of separate account—and not available to the federal government generally—the current year's budget deficit would be \$58 billion larger than is being currently re-

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22. BOSKIN, *supra* note 13, at 7-8, 126; Church & Lacayo, *supra* note 12, at 28.

23. See, e.g., BOARD OF TRUSTEES, 1994 ANNUAL REPORT, FEDERAL OLD-AGE AND SURVIVORS INSURANCE AND DISABILITY TRUST FUNDS (1994).

24. See *id.*; see also BIPARTISAN COMM'N ON ENTITLEMENT & TAX REFORM, *supra* note 10, at 22.

25. Lochhead, *supra* note 21, at A1.

ported.<sup>26</sup> In other words, the federal government is spending the net revenue intake of the Social Security program on current expenditures, rather than using non-Social Security revenues to fund those needs exclusively. As a result, it is indeed true that if the Social Security program did not exist, the federal budget deficit would actually be *higher* than currently reported.

Nevertheless, the current use of those net revenues is simply a means of borrowing from Peter to pay Paul. That is, in future years when the Social Security program will require more outlays than revenues will provide, the federal government will need to raise funds from other sources to cover all of its commitments. In those later years, it will be obvious to all that the Social Security program is a net drain on the federal budget and does in fact aggravate the budget deficit on a current-year basis.

But long before that switchover in the balance between revenues and expenditures takes effect, Social Security will be a factor in the federal budget deficit dilemma. The taxation of worker's wages, as described previously, is one part of the revenue sources of the federal government, and payment of benefits to Social Security recipients is one type of governmental expenditure.<sup>27</sup> The composition of those benefit payments is not some absolutely mathematical correlate of the payroll taxes paid.<sup>28</sup> Social Security is, quite self-consciously, a program of social insurance and not just a collection of actuarially derived benefits. Thus, if the government chooses to reduce, alter, or even eliminate certain categories of Social Security benefits, it could do so without affecting the present payroll taxation structure. It could, for example, decide to lower benefit payouts from \$332 billion (1995 figures) to, say \$300 billion, without diminishing the \$390 billion it receives from Social Security's payroll tax. Indeed, Social Security benefits have been enhanced, reduced, and augmented over the years as Congress has responded to social developments and/or political forces—all without necessarily changing its financing mechanism.<sup>29</sup> To the extent that Social Security's beneficiary payments are not re-

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26. See Church & Lacayo, *supra* note 12, at 27.

27. *Id.* at 29-30.

28. See C. Eugene Steuerle & Jon M. Bakija, *Basic Features of the Social Security System*, 62 TAX NOTES 1457, 1458-60 (1994).

29. Nancy J. Altman, *The Reconciliation of Retirement Security and Tax Policies: A Response to Professor Graetz*, 136 U. PA. L. REV. 1419, 1426-27 (1988).

duced, they constitute expenditures that increase the government's current outlays and increase the federal budget deficit.

To summarize, although Social Security as a distinct program is currently in "surplus," that situation will change within a few decades. More importantly, the constitution of Social Security beneficiary payments is a government expenditure like any other expenditure, and failing to reduce or change those payments impacts federal budget outlays and the resulting deficit.

### III. Retirees Are Only Recovering Their Own Money

One of the myths that makes the Social Security program so politically untouchable is the belief that current retirees are simply recovering their own contributions. If this were true, one would indeed be hard pressed to suggest reducing Social Security benefits. If people do not recover their own investments, after all, Social Security might be seen as just another tax-like government imposition. Social Security, in fact, is partially a program of social insurance<sup>30</sup> and partially a program of ensuring retirement income.<sup>31</sup> Yet many, if not most, retirees seem to believe that its retirement income function is its overwhelmingly predominant, if not sole, characteristic. Accordingly, they view the monthly payments that they receive as a return of the taxes that they paid to the system during their working life.

During much of Social Security's existence, its taxes were imposed at much lower rates and on a much lower wage base than is currently the case. For example, from 1937 through 1949, the Social Security tax rate was only 2% rather than the present 12.4%, which continues to be split between the employer and employee.<sup>32</sup> Rates were increased after that date, but on an irregular schedule—sometimes once every four years, sometimes every year. But the total tax rate was only half of the current rate as recently as 1962, and did not reach 10% until 1978.<sup>33</sup> Similarly, the wage base on which this tax was

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30. Kelly W. Schemenave, *Adams v. Weinberger and Dubinski v. Bowen: Posthumous Illegitimate Children and the Social Security Child Survivorship Provision*, 25 Soc. Sec. Rep. Serv. (West) 685, 686 (1989); see *infra* text accompanying notes 69-70 (surviving spouse benefits), 85-88 (disability benefits).

31. Altman, *supra* note 29, at 1425.

32. See COMMERCE CLEARING HOUSE, 1994 SOCIAL SECURITY EXPLAINED 25 (1994) [hereinafter CCH]. Since 1950, Social Security taxes have multiplied 10 times.

33. CCH, *supra* note 32, at 25.

imposed was only \$3,000 through 1950, and was then raised on an irregular schedule until it reached \$7,800 in 1968.<sup>34</sup> The wage base was then raised again in 1972 and every year thereafter. Even so, it did not rise above \$30,000 until 1982.<sup>35</sup> Due to these low rates and low wage base during many of the years in which current retirees were working, their maximum Social Security tax—including their employer's portion—was only \$60.<sup>36</sup> As recently as 1972, in fact, the maximum amount paid in was only \$828.<sup>37</sup> And of course, during those years, persons who did not earn the maximum wage cap paid in even smaller amounts. Consequently, when current retirees relate their payments of Social Security taxes—both their own and their employer's share—to current benefits, a low-wage earner retiring in 1995 at age sixty-five recovers all of the Social Security taxes paid in forty months.<sup>38</sup> Even a maximum-wage earner who paid tax on whatever wage cap was in effect, recovers the cumulative investment in less than seven years.<sup>39</sup> In other words, after four and one-half years of receiving Social Security benefits, an average-wage-earning retiree is collecting welfare.<sup>40</sup> That is, *all* of that worker's money has been repaid, including the employer's portion paid on the worker's behalf. Even if one includes interest earned during that interval, at some point most current retirees are receiving funds in excess of what they had put into the system.<sup>41</sup>

On the other hand, the relationship between payments to, and benefits received from, Social Security is changing over time. As noted above, the Social Security tax rate has increased dramatically in the past twenty years or so.<sup>42</sup> The wage base on which those Social Security taxes are collected, moreover, has risen dramatically since

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34. *Id.* at 36.

35. *Id.*

36. *See id.* at 25-38 (wage base of \$3,000  $\times$  1.0% = \$30 paid by both employer and employee, or \$60 in total).

37. *See id.* (wage base of \$9,000  $\times$  4.6% = \$414 paid by both employer and employee, or \$828 in total).

38. *See Church & Lacayo, supra* note 12, at 29 (20 months  $\times$  2 [employer + employee] = 40 months); *see also* BOSKIN, *supra* note 13, at 8. *See generally* CRS *Finds Falling Social Security Recovery*, Daily Tax Rep. (BNA) No. 11, at H-1 (Jan. 18, 1994).

39. Church & Lacayo, *supra* note 12, at 29.

40. Robert D. Hershey Jr., *Misunderstanding Social Security*, N.Y. TIMES, Aug. 20, 1995, § 4, at 4.

41. *Id.*; *see also* BIPARTISAN COMM'N ON ENTITLEMENT & TAX REFORM, *supra* note 10, at 32.

42. *See supra* note 32.

1972, and has more than tripled since 1978.<sup>43</sup> As a result, people who retire in the future may not, in fact, recover all of their investments in the form of retirement benefits. Some computations involving unmarried men earning maximum earnings and having average life expectancies indicate that they may not recover all of their Social Security taxes when they retire.<sup>44</sup> Another way of describing this phenomenon is that the number of years needed to recover the much-greater Social Security taxes paid into the system in recent years may exceed the person's anticipated life expectancy upon attaining retirement age.<sup>45</sup> On the other hand, huge categories of beneficiaries will not face this predicament for many years—namely, married men (whose spouses receive additional Social Security benefits and who have longer life expectancies generally), women (who have longer life expectancies generally), and workers who earned less than the wage cap (whose taxes paid into the system were necessarily lower).<sup>46</sup>

To summarize, in the future, some retirees will be simply recovering their own funds. But *at the present time*, and for many years to come, almost all retirees will have long since recovered their tax payments into the Social Security program, often many times over.

#### IV. Social Security Will Not Be There When One Retires

A prevailing myth among current *workers*, rather than current retirees, is that the Social Security program is so doomed to insolvency that the program will not be there for them at all. In one widely quoted survey of younger Americans, only 28% believed that the Social Security system would pay benefits to them when they retire.<sup>47</sup> In that same survey, fully 46% of the respondents said that they believed that unidentified flying objects (UFO's) exist.<sup>48</sup> Young Americans, in other words, have nearly twice as much faith in UFO's than in the continued existence of Social Security.

The idea that Social Security will disappear is a particularly pernicious canard, because it demoralizes younger workers whose cur-

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43. See *supra* note 34.

44. *Data Show Class of Retirees Already Will Receive Less in Benefits than Taxes Paid*, Daily Tax Rep. (BNA) No. 47, at G-5 (Mar. 12, 1993).

45. *Id.*

46. *Id.*

47. *Boomers, Generation X'ers May Fight over Benefit Scraps*, ARIZ. REPUBLIC, Feb. 4, 1995, at E1.

48. *Id.*



rent taxes are needed to fund the program. It is also patently untrue. Regardless of whether one can fully recover one's contributions to Social Security, the program will continue to provide retirement benefits for future generations of retirees. Those retirement benefits may not be as generous as those being received by the current generation of retirees, and the qualifying retirement age may be delayed, but Social Security will certainly continue to pay benefits when people retire.

In a sense, the myth of Social Security's impending collapse is related to the myth described earlier that there is a single isolated trust fund. After all, if there is a trust fund, and if that fund is depleted, then presumably no further benefits will be paid. But the obligations of Social Security are not limited to some finite trust fund.<sup>49</sup> Social Security is backed by the full faith and credit of the federal government.<sup>50</sup> It is precisely because there is no single segregated fund that the government's commitment to generations of future retirees continues even when the balance in that "fund" is gone. To put this matter somewhat differently, even if no balance remains in the Social Security fund, and even if benefit expenditures exceed Social Security's revenues, the government remains obligated to make those payments to retirees.<sup>51</sup>

Indeed, one of the most significant differences between Social Security and other pension plans is the absolute solvency, in a cash flow sense, of the Social Security system. No matter what happens, the government cannot go bankrupt, unlike a private company. If worse comes to worst, the federal government will simply raise federal taxes generally, reduce other government spending, or borrow the funds necessary to continue Social Security's commitments. The absolute worst case scenario would have the government inflating the value of its currency by printing up enough money to meet its Social Security commitments. While this prospect is hardly reassuring, the point remains that the federal government is the single most reliable creditor. Accordingly, Social Security will be there when a person retires, and its benefits will be paid on time.

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49. BOSKIN, *supra* note 13, at 7-8, 126.

50. *Id.*

51. *Id.*

## V. Retirement Benefits Are Proportional to One's Lifetime Earnings

Most Americans, both current retirees and workers, seem to believe that there is a mathematically correlative relationship between one's lifetime earnings and one's Social Security retirement benefits. To be sure, the more that one earns while working, the more one will receive in Social Security benefits. But the correlation is not nearly as mathematical as would exist in a true pension plan.

The derivation of Social Security benefits follows an extremely convoluted methodology that is almost never alluded to, let alone explained, in any materials that are available to the general public. This methodology is not exactly secret, for it is explained in treatises that are addressed to professional advisors.<sup>52</sup> But only rarely do these treatises clearly set forth the bottom-weighted calculation of Social Security retirement benefits.

When a person reaches "full retirement age" (presently, sixty-five years old), that worker is entitled to a retirement benefit equal to his or her "primary insurance amount," or PIA.<sup>53</sup> The calculation of PIA has undergone numerous changes over the years, but the current methodology applies a three-part formula to a worker's "average indexed monthly earnings," or AIME—a rough surrogate for average lifetime earnings.<sup>54</sup> This three-part formula applies 90%, 32%, and 15%, to portions of a worker's AIME broken into three brackets. These percentages remain constant, but the "bend points" that determine where the three brackets begin and end are adjusted annually for inflation.<sup>55</sup> The relevant "bend points" are those for the year in which a person reaches age sixty-two. If a worker turned age sixty-two, for example, during 1995, the applicable "bend points" that sepa-

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52. See, e.g., Hans Sprohge & Carl A. Brooks, *Understanding Social Security Retirement Benefits*, 174 J. ACCOUNTANCY 53, 56-57 (1992); Steuerle & Bakija, *supra* note 28, at 1458-60; Richard B. Toolson, *Should a Worker Who Continues to Work Beyond Normal Retirement Age Immediately Draw Social Security Benefits?*, 57 TAX NOTES 539, 540 (1992); see also LOUIS A. MEZZULLO & MARK WOOLPERT, *ADVISING THE ELDERLY CLIENT* §§ 15:184 to 15:195 (1992); PETER J. STRAUSS ET AL., *AGING AND THE LAW* 147-49 (1990).

53. 42 U.S.C. § 402(a) (1988). As to the concept of "full retirement age," see generally LAWRENCE A. FROLIK & RICHARD L. KAPLAN, *ELDER LAW IN A NUTSHELL* 279-80 (1995).

54. See generally CCH, *supra* note 32, at 170-74 (illustrating the computation of "average indexed monthly earnings").

55. See *id.* at 176-78.

rated the three brackets were \$426 and \$2,567.<sup>56</sup> So, if this worker had average indexed monthly earnings of, say \$3,000, this worker's PIA would be calculated as follows:

90% of the first \$426 = \$383.40

32% of the next \$2,141 (\$2,567 - \$426) = \$685.12

15% of AIME over \$2,567 (\$3,000 - \$2,567 = \$433) = \$64.95

The sum of these components—namely, \$1,133.47—would then be rounded to the next lower multiple of ten cents, and the person's PIA becomes \$1,133.40.<sup>57</sup>

A worker who earned more than \$3,000 of AIME would have a larger PIA. But additional amounts of AIME in excess of the second bend point would add to a person's PIA to the extent of only 15%. For example, if the worker described above had an AIME of \$4,000 instead of \$3,000, that person's PIA would be \$150 more, because all of the additional earnings of \$1,000 would fall into the top 15% bracket. The PIA in that instance would be \$1,283 (\$1,133 + \$150)—an improvement of only 13.2% over the PIA previously computed, despite an increase in the worker's AIME of more than 33%. In other words, the higher one's AIME, the higher one's PIA, although the relationship is not proportional.

Similarly, a worker who had lesser amounts of average earnings would face a smaller PIA, but not proportionately smaller. For example, a worker with an AIME of only \$1,500 would have a PIA of \$727—clearly less than the \$1,133 derived from an AIME of \$3,000, but more than half of the latter PIA. As this example demonstrates, Social Security's PIA formula is redistributive in its impact.<sup>58</sup> The bottom-weighted nature of this formula contrasts with most employer-provided defined benefit pension plans, which base their payouts on a worker's earnings history. Under such plans, if Jan earns twice as much as Colin, Jan's retirement benefit is twice as much as Colin's.

Social Security calculates its benefits using the bottom-weighted PIA formula for several reasons. The AIME statistic is an average of a worker's earnings over thirty-five years, regardless of whether that worker has thirty-five years of earnings.<sup>59</sup> Accordingly, the PIA

56. *Social Security Benefits Explained*, 1A Unempl. Ins. Rep. (CCH) ¶ 12,211 (Feb. 6, 1995).

57. *See id.*

58. *See generally* C. Eugene Steuerle & Jon M. Bakija, *How Social Security Redistributes Income*, 62 TAX NOTES 1763 (1994).

59. *See* Sprohge & Brooks, *supra* note 51, at 57.

formula compensates, to some extent, for people who are out of the work force for several years and whose AIME is thereby diluted by having several years of zero or low earnings. There is also an explicit welfare component to the Social Security program, as it was intended to provide only a safety net, or base level of retirement earnings.<sup>60</sup> It was not intended to be the sole means of financing one's retirement.<sup>61</sup> But the point remains that Social Security benefits are not directly proportional to a person's lifelong earnings.

In contrast, a person's *contributions* into Social Security are proportional to one's earnings. But as the preceding analysis has shown, one's *benefits* are not. Thus, a person making \$40,000 a year pays exactly twice the amount of Social Security tax as someone making \$20,000 a year. While that first person will get a larger Social Security benefit than will the second person, the first person's benefit will not be twice as large, and therein lies the rub.

A further complicating factor is the fact that only those Social Security earnings that were initially subject to tax—that is, that were under the annually adjusted wage cap—are ever considered in deriving Social Security benefits. Thus, someone with earnings of \$100,000 in 1995 would be treated for Social Security's purposes as earning only \$61,200—the wage cap for that year. Earnings above the wage cap are completely ignored in deriving the AIME statistic. Consequently, the Social Security benefit for a high-wage earner will be a smaller percentage of that person's lifelong earnings, even if the PIA formula did not exist.

## VI. Social Security Favors Two-Income Married Couples

It is frequently alleged that Social Security tends to favor two-income married couples, as opposed to single-earner couples, because benefits are paid according to one's earnings. And indeed, the bottom-weighted calculation of Social Security retirement benefits, as described above, results in payments to a two-income couple in excess of those to a single-income couple, even if both couples have the same underlying earnings. Using the benefit calculations derived previously, assume that Sam has AIME of \$3,000 which produces a PIA of \$1,133. In contrast, Ken and Andrea each have AIME of \$1,500 (one-

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60. Altman, *supra* note 29, at 1427-32, 1446.

61. *Id.*

half of Sam's AIME), but their PIA is \$727 each, for a total of \$1,454, compared to Sam's benefit of \$1,133. Thus, it would appear that Social Security favors two-earner married couples over single-earner couples.

But Social Security also provides a spousal benefit equal to one-half of the worker spouse's retirement benefit.<sup>62</sup> So, if Sam is receiving \$1,133 per month as a Social Security retirement benefit, his wife Leah would receive \$567 per month (one-half of \$1,133) as a spousal benefit derived from Sam's work record. This spousal benefit is paid as long as it is more than Leah would be able to claim on her own work record. And although the spousal benefit is only one-half of the worker's benefit, many spouses find that the spousal benefit actually pays more than a worker's benefit that is based on their own work record. This result may reflect the fact that their own wages were significantly less than their spouse, and/or that they had many years out of the compensated work force. For example, even if Leah earned as much as her husband but she was out of the work force for, say twenty years—due either to educational plans, family commitments, or other lifestyle choices—she may well find that 50% of Sam's benefit exceeds 100% of a benefit based on her own work record.

If that is the case, Sam and Leah's total Social Security benefit is \$1,700 per month, made up of Sam's worker's retirement benefit of \$1,133 plus Leah's spousal benefit of \$567, one-half of Sam's. As a result, the single-earner couple of Sam and Leah actually receive *higher* Social Security benefits than the two-earner couple of Ken and Andrea (who received \$1,454), even when the two-income couple's combined AIME is exactly the same. Thus, Social Security does *not* favor two-earner married couples.

Perhaps, Social Security's spousal benefit can be described as supportive of "family values." Although the spousal benefit is not tied to the nonemployed spouse's activities of homemaking and child rearing, it does provide some financial recognition to spouses who have devoted themselves to those pursuits. Moreover, if Sam had never married, he would have been entitled only to his PIA of \$1,133—*less* than Ken and Andrea would receive, based on the same total earnings. It is Leah's status as Sam's wife—at least after one year of marriage<sup>63</sup>—that entitles them to the additional \$567 which

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62. 42 U.S.C. § 402(b)(2), (c)(2) (1988).

63. *Id.* § 416(b)(2), (f)(2).

enables Sam to receive more than Ken and Andrea.<sup>64</sup> Thus, although the bottom-weighted nature of the PIA formula penalizes Sam vis-à-vis Ken and Andrea, Social Security's spousal benefit compensates—overcompensates in many cases—for that penalty. In effect, Social Security rewarded Sam for getting married rather than remaining single—further supporting “family values,” as that concept seems to be conventionally understood.

## VII. Social Security Favors Long-Lived Marriages

Social Security is often described as a program that rewards the “traditional” marital relationship, sometimes called “Ozzie and Harriet” after a popular 1950's television program, of a working man married his entire adult life to a woman who does not work in the compensated work force.<sup>65</sup> Indeed, the preceding discussion demonstrated that married couples receive greater benefits when only one spouse is employed than when both spouses produce the equivalent earnings. Nevertheless, it is not true that Social Security favors life-long marital partners.

Social Security provides a derivative benefit not only to the spouse of a worker who has retired, but also to the ex-spouse of a worker, if that ex-spouse was married at least ten years to the worker and has not remarried.<sup>66</sup> In certain circumstances, subsequent remarriages are ignored—namely, when the remarriage occurs after reaching age sixty.<sup>67</sup> But in any case, a person who is a divorced spouse can collect benefits based on the worker's work history without affecting benefits that are paid to that worker, to that worker's current spouse, or to any other recipients (for example, children) who may be, however, collecting derivative benefits from that worker's account.<sup>68</sup> Their marriage, however, must have lasted at least ten years. So if, for example, Hank was married to Alice for eleven years, then to Betty for twelve years, and then to Carol for ten years, all three of his ex-wives could collect benefits equal to one-half of his worker's retirement benefit. Once a person has been married at least ten years, in other

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64. SOCIAL SECURITY MANUAL 80 (William W. Thomas III ed., 1995).

65. Steve Sakson, *Women Become Losers Under Conditions of Social Security Rules; Retirement: Married Working Women Usually Earn No More in Benefits Than If They Had Never Worked a Day*, L.A. TIMES, Nov. 25, 1990, at A46.

66. 42 U.S.C. § 416(d)(1), (4) (1988).

67. *Id.* § 402(e)(3)(A).

68. See CCH, *supra* note 32, ¶ 524.

words, that person's spouse has become vested in that person's Social Security record, and further years of marriage do not increase the amount of that spouse's Social Security benefit. In effect, Social Security provides no incentive to stay married once a marriage has lasted ten years.

For example, assume that Ozzie and Hank both qualify for a worker's retirement benefit of \$1,000. Ozzie and Harriet (Ozzie's wife) will receive Social Security benefits of \$1,500 per month—assuming that Harriet would not receive more than \$500 based upon her own work record, and assuming that both Ozzie and Harriet have reached “full retirement age.” Using the same assumptions about spousal work records and age, Hank would receive his \$1,000 per month, and his former wives (Alice, Betty, and Carol) would each receive \$500, as would his current spouse, Deborah—a grand total of \$3,000 per month, compared to Ozzie and Harriet's \$1,500.

Moreover, when a retired worker dies, his or her surviving spouse succeeds to the retired worker's *entire* benefit.<sup>69</sup> Therefore, if Ozzie dies, Harriet's benefit would rise from \$500 to \$1,000 per month, ignoring intervening cost-of-living adjustments. This stepped-up benefit rule, however, also applies to surviving former spouses<sup>70</sup>—once again, assuming that the marriage lasted at least ten years, and that the spouse's own work record does not provide a greater benefit. As a result, Hank's three surviving ex-wives and his surviving spouse will each receive \$1,000 after Hank dies, producing a grand total of \$4,000 from Hank's account compared to \$1,000 for Harriet from Ozzie's account.

Thus, Social Security recognizes the increasing prevalence of divorce and does not tilt its benefits in the direction of long-lived marriages once a couple celebrates their tenth wedding anniversary.

### VIII. One Could Do Better Investing Directly

Few myths are more violently asserted than the idea that Social Security is a rip-off to workers who could take the taxes that they pay to Social Security and obtain better benefits on their own. At a certain level, this assertion actually is true. Because of the bottom-weighted PIA benefit formula methodology described above, a person's Social

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69. *Id.* ¶ 525.

70. *Id.* ¶ 525.1.

Security payments *could* typically provide a larger benefit upon retirement, if those funds were invested privately.<sup>71</sup>

But there are several major caveats to that assertion. First, one must recognize that Social Security payments are collected from the employee automatically, every year, regardless of the person's other financial needs and preferences.<sup>72</sup> The payments do not depend upon the fiscal discipline of the particular person involved. Second, as indicated above, Social Security is guaranteed to make its payments on time.<sup>73</sup> Unlike private pension systems, there is no realistic risk of default. Whether the government will use borrowed or newly printed funds to meet its obligations, the fact remains that private pension plans are not able to "print their way" out of any fiscal difficulties that might arise. Social Security is uniquely dependable in that regard. Third, Social Security is completely portable. With very limited exceptions, virtually every type of employment is covered by Social Security,<sup>74</sup> including self-employment. No other defined benefit plan credits *every* year of a person's work life, regardless of that person's employer, industry, or profession.

But the benefits of Social Security go much beyond the complete portability and guaranteed liquidity of Social Security's retirement benefit program. The entire range of derivative benefits adds to a person's potential benefits far in excess of what private pension plans could ever hope to provide. For example, even in a "traditional" marriage such as Ozzie and Harriet's from the preceding section, Social Security pays the retired worker's spouse half of the worker's benefit.<sup>75</sup> No private pension plan provides *any* spousal benefit while the worker spouse is still alive. Joint-and-survivor annuities and other survivor-oriented benefits are paid only when the worker/retiree has died.<sup>76</sup> Social Security is unique in this regard. Moreover, Social Security provides benefits to a divorced spouse,<sup>77</sup> or as in the case of

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71. See, e.g., Church & Lacayo, *supra* note 12, at 29 (illustrating how Social Security payments invested in U.S. Treasury Bills or corporate bonds would have yielded a higher monthly payout than Social Security provides).

72. 42 U.S.C. § 430 (Supp. 1995); I.R.C. §§ 3101(a), 3102(a) (1995).

73. See Church & Lacayo, *supra* note 12, at 29.

74. Noncovered employment includes the following principal categories: most employees of state and local governments, students who work at the school or college that they attend, children under age 18 who are employed by their parent, and certain religious objectors. See generally FROLIK & KAPLAN, *supra* note 53, at 277-78.

75. 42 U.S.C. § 402(b)(2), (c)(2) (1988).

76. See 29 U.S.C. § 1055(e) (1988 & Supp. 1993); I.R.C. §§ 401(a)(11), 417 (1995).

77. 42 U.S.C. § 416(d)(1), (4) (1988).



Hank from the preceding section, to several divorced spouses. Once again, there is simply no private sector counterpart that would try to provide benefits to more than one spouse of a worker based upon that worker's work history.

In addition to these spousal and former spouse benefits, Social Security pays benefits to certain children under age nineteen.<sup>78</sup> These benefits can also be half of the retiree's PIA, but there is a "family maximum" that limits payments to a worker's current spouse and dependent minor children.<sup>79</sup> The family maximum is derived from a four-part formula tied to the worker's PIA,<sup>80</sup> but the point remains that certain children receive derivative benefits while the retiree is still alive—a benefit that is also unmatched by any private sector pension plan.

Moreover, these derivative benefits are all augmented when the retiree dies. A surviving spouse or ex-spouse receives increased benefits, as described previously. A surviving child's benefit is increased to 75% of the worker's PIA, although still subject to the "family maximum." Even a worker's *parents* may be eligible for Social Security benefits if they received half of their support from the deceased worker.<sup>81</sup> Once again, this package of survivors' benefits simply has no counterpart in private plans.

Perhaps even more significantly, *all* Social Security benefits are adjusted annually, across the board, on the basis of inflation, via the mechanism of a cost-of-living allowance, or COLA.<sup>82</sup> Some version of a cost-of-living allowance may characterize other public pension systems, but few are as comprehensive as Social Security's. Moreover, inflation adjustments are very uncommon in private pension plan payouts.<sup>83</sup> Most private plans utilize annuities and other mechanisms that fix the payment amount when the payments begin. These private plans simply ignore inflation that occurs after payments begin. Social Security, in short, is inflation-protected to a degree that few other pension plans even attempt.

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78. 42 U.S.C. § 402(d)(1) (children must generally be under age 18, but children who are 18 years old can qualify if they are still attending elementary or high school).

79. See CCH, *supra* note 32, ¶ 538.

80. *Id.* (illustrating the computation of the "family maximum").

81. 42 U.S.C. § 402(h) (1988).

82. See CCH, *supra* note 32, ¶ 541.

83. GARY S. FIELDS & OLIVIA S. MITCHELL, RETIREMENT, PENSIONS, AND SOCIAL SECURITY 39 (1984).

Finally, but by no means insignificantly, Social Security provides benefits beyond retirement benefits, derivative benefits, and survivors' benefits. Social Security's official name is the Old-Age, Survivors, and Disability Insurance.<sup>84</sup> The focus of this article has thus far been on the old-age and survivors aspects of Social Security. But the taxes that workers pay into Social Security also provide the person with *disability* coverage.<sup>85</sup> Though most workers simply ignore this feature of Social Security unless and until they are disabled, the coverage remains in effect nevertheless. Under this program, if a person is unable to perform "any substantial gainful activity by reason of any medically determinable physical or mental impairment,"<sup>86</sup> then the person can receive disability payments starting as young as twenty-one years of age. These payments continue until that person reaches full retirement age, at which time the person's Social Security retirement benefit begins. In addition, if a person receives Social Security disability benefits for twenty-four consecutive months, he or she becomes eligible for Medicare,<sup>87</sup> the federal government's health care program, which covers most of the person's medical needs. Qualification for disability benefits is not easy, to be sure, and in fact, Social Security presumes that a person who earns more than \$500 per month has the ability to perform "substantial gainful activity."<sup>88</sup> But the point remains that disability coverage is a major component of the Social Security program, one that provides coverage for *all* workers, regardless of preexisting conditions, the nature of their employment, and their general health history. Only a government program could provide such virtually universal disability coverage.

The sum of these features—universal access, complete portability, guaranteed liquidity, derivative benefits, survivors' benefits, inflation adjustments to all benefits paid, and disability coverage—is a comprehensive package that would be impossible to replicate on a private basis, at any price. To be sure, some employees might prefer a less comprehensive package if they had the choice, but the fact remains that Social Security—when analyzed as an entire package—is simply better than what they could otherwise obtain.

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84. 42 U.S.C. § 401(a), (b) (1988).

85. See generally CCH, *supra* note 32, at 202-23; LAWRENCE A. FROLIK & MELISSA C. BROWN, ADVISING THE ELDERLY OR DISABLED CLIENT 4-19 to 4-33 (1992).

86. 42 U.S.C. § 416(i)(1)(A) (1988).

87. *Id.* § 1395c(2).

88. 20 C.F.R. § 404.1574 (1995).

## IX. Working After Retirement Makes Financial Sense

As noted previously, Social Security benefits are payable as early as age sixty-two. At that age, however, one's Social Security benefit is reduced actuarially to take account of the longer period over which those benefits will be paid.<sup>89</sup> Many such persons can, of course, still earn income as an employee or from self-employment. Accordingly, some retirees consider working part-time while receiving Social Security. The question becomes: does this strategy make financial sense?

Continuing to work past age sixty-two might provide additional years of earnings history and could lead to a recalculation of a person's PIA, especially if that person's earnings average increases due to these additional years of earnings.<sup>90</sup> For example, someone with less than thirty-five years of wages before age sixty-two would benefit by replacing a year of zero or low wages with a year of higher wages after age sixty-two, thereby increasing that person's average. This effect is moderated rather significantly, however, by the bottom-weighted PIA formula. As a result of that formula, increases in average earnings produce relatively small increases in one's Social Security benefits. But the point remains that increased earnings can produce higher Social Security benefits if the impact on one's average earnings is large enough.

On the other hand, Social Security imposes a "retirement earnings" test on recipients who perform compensated work while receiving retirement benefits.<sup>91</sup> Reduced to its essence, this test limits the amount of earnings that a retiree can receive before losing some of his or her Social Security benefits.

The "retirement earnings test" focuses exclusively on income earned from performing personal services. It ignores a person's income from investment sources, such as interest income, dividends, capital gains, rentals, and annuities. Similarly, it ignores pension payments. Only income from wages and self-employment, including director's fees and commissions, is considered,<sup>92</sup> thereby reflecting the

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89. The benefits are reduced by 5/9 of 1% for every month that benefits commence before the recipient reaches "full retirement age." 42 U.S.C. § 402(q)(1)(A) (1988). Thus, someone who starts receiving benefits at age 62 would receive 80% of what that person would receive at age 65 (3 years early  $\times$  12 months =  $36 \times 5/9$  = 20% reduction).

90. 42 U.S.C. § 402(q)(10) (1988).

91. *Id.* § 403(b).

92. *Id.* § 403(f)(5). See generally CCH, *supra* note 32, ¶ 555.1.

test's underlying rationale—namely, that retirement benefits are for persons who have retired from active employment.

When the "retirement earnings" test applies, it provides that persons who receive earnings from work will lose a portion of their Social Security benefits if certain thresholds are exceeded. The thresholds are based upon a person's age and are adjusted annually for inflation. The first threshold applies to persons who have not yet reached "full retirement age" (presently, age sixty-five), and was \$8,160 in 1995.<sup>93</sup> A second threshold applies to persons who have reached full retirement age, and was \$11,280 in 1995.<sup>94</sup> Persons using the lower threshold (i.e., younger than "full retirement age") lose one dollar in benefits for every two dollars of excess earnings.<sup>95</sup> Persons using the higher threshold lose one dollar for every three dollars of excess earnings.<sup>96</sup> Earnings received after a person reaches age seventy, however, are not affected by the "retirement earnings" test, regardless of the amount of such earnings. In other words, the "retirement earnings" test impacts only those benefit recipients who are between the ages of sixty-two and sixty-nine years. But when this test applies, affected retirees can face extremely high effective tax rates on those earnings which are above the applicable threshold.

For example, assume that Suzanne would normally receive a Social Security benefit of \$12,700 per year, but she earned income of \$10,160 in 1995 when she was sixty-three years old. The excess of those earnings over the lower threshold of \$8,160—namely, \$2,000—reduces her Social Security benefit by half of that excess (i.e., \$1,000). Accordingly, her Social Security benefit would be reduced from \$12,700 per year to \$11,700 per year (\$12,700 – \$1,000). The impact of this rule is that her "excess" earnings were effectively taxed at a 50% rate, because her Social Security benefit was reduced by 50% of those "excess" earnings. In addition, of course, she would owe federal income tax on those "excess" earnings, and probably state income tax as well. In a final ironic twist, Suzanne also would be required to pay Social Security's 12.4% payroll tax on those "excess" earnings, as well as Medicare's 2.9% payroll tax.<sup>97</sup> The effect of these several layers of tax (assuming a state income tax rate of 5%) is an effective marginal

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93. See CCH, *supra* note 32, ¶ 555.1.

94. *Id.*

95. 42 U.S.C. § 403(f)(3) (1988).

96. *Id.*

97. I.R.C. §§ 3101(b), 3111(b) (1995).

tax rate of 85.3% on the \$2,000 of earnings that Suzanne received in excess of the applicable threshold.<sup>98</sup> If Suzanne were a few years older, the effective tax rate would be lower, because the benefit reduction would be one dollar for every three dollars of earnings, rather than one dollar for every two. Moreover, she would be able to earn more income before the retirement earnings test would apply. Even so, on these facts, the effective marginal rate would be 68.6% on income in 1995 over \$11,280.<sup>99</sup>

Clearly, if a person wishes to continue working beyond a certain age, that person should consider delaying receipt of Social Security retirement benefits, because those benefits will be reduced in many cases.<sup>100</sup> There are, of course, many sound social and psychological reasons for continuing to work after one retires. But the point remains that if post-retirement earnings would trigger Social Security's retirement earnings test, working after retirement usually does *not* make financial sense, particularly for persons who have not yet reached "full retirement age."

## X. Retirement Benefits Are Taxed More Heavily Than Other Pension Payments

In nearly all private pension plans, the entire amount of the benefit payment is taxable when received.<sup>101</sup> Recipients have had, of course, the advantage of deferring tax on this income from when the pension benefit was earned during their working years until the date of its receipt, but when the benefit is finally received, it is taxable *in full*, in most cases.<sup>102</sup>

In contrast, Social Security retirement benefits are generally received tax-free. Until 1983, in fact, Social Security recipients did not

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98. That is, 50% effective tax rate from loss of benefits + 15% federal income tax + 5% state income tax + 12.4% Social Security tax + 2.9% Medicare tax = 85.3%. For these purposes, the remote possibility of deducting state income taxes from the worker's federal income tax can be ignored.

99. Same as above, but using 33.3% instead of 50% as the effective tax rate from loss of benefits.

100. There is a compensating adjustment for persons who lose Social Security benefits due to "excess" earnings. Their age of benefit commencement is increased to take account of the lost benefits, and this adjustment will increase their benefits in the future, although by relatively small amounts. See 42 U.S.C. § 402(q)(7) (1988); see also Bruce D. Schobel, *Letter to the Editor*, 57 TAX NOTES 1219 (1992).

101. I.R.C. § 61(a)(11) (1995); see FROLIK & BROWN, *supra* note 85, at 7-8.

102. *Id.* See generally DIANNE BENNETT ET AL., *TAXATION OF DISTRIBUTIONS FROM QUALIFIED PLANS* (1991).

pay tax on *any* Social Security benefits.<sup>103</sup> In that year, Congress imposed a tax on up to one-half of Social Security benefits, if a person had income from all sources—not just earned income—of more than \$25,000 for singles, or \$32,000 for married couples filing joint returns.<sup>104</sup> These thresholds apply to a person's "adjusted gross income" from all sources, plus any tax-free interest income, plus one-half of the person's Social Security benefits<sup>105</sup>—a sum that is often described as one's "provisional income."

For example, if Steve has Social Security benefits of \$13,000, and income from interest, dividends, and a private pension of \$24,000, his "provisional income" would be \$30,500 (\$24,000 + \$6,500 [one-half of his Social Security benefits of \$13,000]). This amount is then compared to his single-person threshold of \$25,000, and the excess (namely, \$5,500 = \$30,500 – \$25,000) is then multiplied by one-half. This result—here, \$2,750 (\$5,500 × 50%)—is taxable, but never more than one-half of the person's Social Security benefit. Therefore, of Steve's \$13,000 Social Security benefit, \$2,750 is taxable, but \$10,250 is not.

The thresholds of \$25,000 for singles and \$32,000 for marrieds are not adjusted for inflation and accordingly have not changed since 1983. As a result, the number of Social Security recipients who are subject to tax on a portion of their benefits has increased steadily since this tax was enacted, and presently is approximately 22%.<sup>106</sup> Nevertheless, some 78% of Social Security recipients pay *no* federal income tax on their Social Security benefits, and of the 22% who do pay tax on their Social Security benefits, many of them pay tax on only a small portion of their benefits.

In 1993, a second tier of tax was imposed for persons with "provisional income" exceeding \$34,000 for single persons and \$44,000 for married couples filing jointly.<sup>107</sup> These thresholds are not adjusted for inflation, so the number of Social Security recipients subject to this second tier is also likely to rise over time. Nevertheless, at the present

103. CCH, *supra* note 32, ¶ 250A.

104. I.R.C. § 86(a), (c)(1) (1995). For married persons filing separate returns, there is *no* threshold; i.e., all of the person's "provisional income" is treated as excess. See *id.* § 86(c)(1)(C).

105. *Id.* § 86(b).

106. Georgette Jasen, *How Clinton's Tax Plan Will Hit the Elderly*, WALL ST. J., Mar. 11, 1993, at C1; see also CONGRESSIONAL BUDGET OFFICE, REDUCING THE DEFICIT: SPENDING AND REVENUE OPTIONS (1995).

107. I.R.C. § 86(c)(2), added by Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13215(a)(1), 107 Stat. 312 (1993).

time, only one in eight Social Security recipients is subject to this second tier of tax.<sup>108</sup> The essence of this second tier is that a portion of Social Security benefits beyond 50% is subject to tax. The proportion rises as one's income rises, but the absolute maximum is 85% of one's Social Security benefits. For example, if Steve in the preceding example had income from all sources of \$50,000, 85% of his \$13,000 benefit, or \$11,050, would be subject to tax.<sup>109</sup> Even then, the remaining \$1,950 would not be taxable.

To summarize, three out of four Social Security recipients pay no federal tax at all on their benefits. About one in eight pay tax on between 50% and 85% of their Social Security benefits. This treatment is far more generous than that accorded to private pension plans, the benefits of which are fully taxable to all recipients, regardless of their income from other sources.

## **XI. Conclusion**

The preceding analysis of the principal mythologies surrounding Social Security is not intended to prescribe solutions for the ultimate reform of the Social Security system. Debunking these myths does, however, suggest that the current level of benefits could be justifiably reduced, that certain requirements for eligibility for benefits could be tightened, and that certain taxes on recipients could be extended, without breaking faith with the American people. As attention is increasingly focused on the federal government's budget deficits, Social Security is too big a target to be ignored. Proposed solutions will certainly be politically charged, but an understanding of how the present system works must be a precondition to a rational evaluation

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108. Prepared Testimony by Assistant Treasury Secretary for Tax Policy Leslie B. Samuels Before House Ways and Means Comm., *reprinted in* BNA, DAILY TAX REP., Jan. 11, 1995, at 41.

109. The taxable portion is phased in above the second tier's threshold, but at \$50,000, the income in excess of the applicable threshold (namely, \$34,000) already exceeds Steve's entire Social Security benefit of \$13,000. See FROLIK & KAPLAN, *supra* note 53, at 310-11.

of the policy alternatives. Only if Social Security can be demythologized and its workings understood can progress be made in adapting Social Security to the budgetary demands and demographic forces that now constrain its fiscal environment.<sup>110</sup>

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110. See generally BIPARTISAN COMM'N ON ENTITLEMENT & TAX REFORM, *supra* note 10, at 24-26, 216-38 (proposals to change "bend point" indexation mechanism, raise "full retirement age," alter the PIA formula, limit COLA's, provide a private investment option in lieu of current benefits, modify spousal benefits, extend coverage to all state and government employees, reform the disability program, tax benefits more extensively, increase payroll tax rates, expand the wage base to include employer-provided fringe benefits, increase or eliminate the wage cap); BOSKIN, *supra* note 13; C. EUGENE STEUERLE & JON M. BAKIJA, *RETOOLING SOCIAL SECURITY FOR THE 21ST CENTURY: RIGHT AND WRONG APPROACHES TO REFORM* (1994).