Social Security Considerations for US Citizen Expatriates

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What is the impact on a U.S. citizen's social security retirement benefits of working and living in Thailand?

The answer depends on many factors, including whether the citizen is eligible for benefits, how long he has worked, how much income (for social security purposes) he has earned each year he has worked, whether the worker has already retired and is receiving retirement benefits and the age of the citizen when he retired. For purposes of this article, unless otherwise specified, income means income that is subject to social security tax.

Eligibility for and Amount of Retirement Benefits

There are two important numbers to be aware of: 40 and 35.

40 is the number of credits each worker must earn to become eligible to receive social security retirement benefits. A worker receives a credit by earning a specified minimum amount of income in a year. A worker can earn up to a maximum of 4 credits per year, so 40 credits can be earned in a minimum of 10 years. For 2009, one credit is earned for each $1,090 of income, and four credits are earned with an income of $4,360.

35 is an important number because the amount of social security retirement benefits a retiree receives is determined by averaging the highest 35 years of the retiree's adjusted income. A worker's income in each year (up to the maximum income subject to social security taxes in that year) is first adjusted to take into account annual changes in average wages. Then the highest 35 years of the retiree's adjusted income are used to determine his monthly average adjusted income. The monthly average adjusted income is in turn used to calculate his "primary insurance amount", which is the monthly social security retirement benefit the retiree receives if he retires at full retirement age, subject to adjustment for inflation.

For workers who work fewer than 35 years, years of zero income are included in the average, so if a worker has worked 10 years, then he will have 25 years of zero income included in his average. The effect of having one or more years of zero income included in the average may be less significant than one might expect, because the primary insurance amount will be a higher percentage of monthly average adjusted income if monthly average adjusted income is low, and conversely, the primary insurance amount will be a smaller percentage of the monthly average adjusted income if monthly average adjusted income is high.

For example, for a worker born in 1947, the primary insurance amount is determined by adding the following:

- 90% of the average indexed monthly earnings up to $744
- 32% of the average indexed monthly earnings above $744 up to $4,483 and
- 15% of the average indexed monthly earnings above $4,483.

The U.S. Social Security Administration provides resources for estimating social security retirement benefits. See http://www.ssa.gov/.

Thailand is not party to a social security (totalization) agreement with the United States, so a worker will not get any social security retirement credit for working in Thailand unless social security taxes are paid to the U.S.

Generally, U.S. social security and Medicare taxes are not payable for wages earned for services performed as an employee outside the United States, and voluntary contributions are not permitted.

However, there are some exceptions:

- Work performed in or in connection with an American vessel or aircraft, where the employment contract was entered into in the U.S. and the vessel or aircraft is at a U.S. port during the worker's employment.
- Work performed in a country with a social security (totalization) agreement with the U.S. (Thailand is not a party to such an agreement).
- Work for an American employer, which includes any of the following: the U.S. government or any of its instrumentalities, an individual who is a resident of the United States, a partnership of which at least two-thirds of the partners are U.S. residents, a trust of which all the trustees are U.S. residents or a corporation organized under the laws of the United States, any U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam or American Samoa and, as of August 1, 2008, any foreign person with an employee who is performing services in connection with a contract between the U.S. government (or any instrumentality thereof) and a member of a domestically controlled group of entities which includes such foreign person.
- Work for a foreign affiliate of an American employer under a voluntary agreement between the American employer and the U.S. Treasury Department. A foreign affiliate of an American employer is any foreign entity in which the American employer has at least a 10% interest, directly or through one or more intermediary entities. For a corporation, the 10% interest must be in voting stock. For any other entity, the 10% interest must be in profits.
- If a U.S. citizen or resident alien works for a U.S. person, defined as a U.S. citizen, an entity incorporated or otherwise formed in the United States or an affiliate of such an entity that has entered into an agreement with the U.S. government, the employer will pay the employer portion of the social security tax, and the employer will withhold the employee portion of the social security tax.
- If none of the foregoing exceptions applies, then a worker, who has fewer than 40 credits, fewer than 35 years of income or otherwise wants to continue contributing to U.S. social security, has another option, which is to be self-employed. If a worker is self-employed, then the worker is required to pay U.S. social security taxes to the U.S. Treasury.
- For 2009, the employer and employee each pay 6.2% on up to $106,800 of income in social security taxes and 1.45% of all income in Medicare taxes, and, subject to offset by income tax provisions, a self-employed person pays 12.4% on up to $106,800 of income and 2.9% on all income. Self-employment tax can be calculated on Schedule SE to Form 1040. The self-employment tax is a higher percentage of income because the self-employed worker must pay both the employer and employee portions of social security and Medicare taxes.

- A U.S. citizen or resident alien living outside the U.S. is required to pay self-employment tax if he earns at least $400 in net earnings as a self-employed person. Self-employment tax must also be paid on certain partnership income and certain guaranteed payments. Any self-employed U.S. citizen or resident alien living outside the United States must usually pay self-employment tax without reduction by the foreign earned income exclusion, which reduces the income tax.
- Thus, there are several ways of continuing to make contributions to the U.S. social security retirement system. None of them are voluntary.
- **Taxability and Reduction of Retirement Benefits**
- If a worker is already retired and receiving U.S. social security retirement benefits, then living and working in Thailand can have two effects on the worker's benefits. First, the social security retirement benefits may be subject to U.S. federal income taxes. Second, benefits may be reduced.
- If the worker is a U.S. citizen or U.S. resident, up to 85 percent of the worker's social security retirement benefits may be subject to U.S. federal income taxes. For 2009, for a retiree filing as an individual, taxes may be payable on 50% of the retiree's social security retirement benefits if his combined income is $25,000 to $34,000 and up to 85% if his combined income is over $34,000. The corresponding income limits are. Combined income means adjusted gross income plus nontaxable interest plus one-half of social security retirement benefits.
- If the worker has retired before full retirement age, then retirement benefits are reduced until he reaches full retirement age if the retiree's income exceeds specified limits. Retirees who work for a U.S. employer and thus continue to pay social security taxes are treated differently from retirees work for someone other than a U.S. employer.
- If, before full retirement age, a retiree works for a U.S. employer or is self-employed and is thus in each case subject to U.S. social security taxes, the reduction in retirement benefits is based on the amount of the retiree's income. For 2009, the earnings limit for retirees under full retirement age is $14,160. For every $2 of additional income, the social security retirement benefit is reduced by $1. The earnings limit for persons in the year they reach retirement age (until the month the persons reach retirement age) is $37,680, and for every $3 of additional income, the social security retirement benefit is reduced by $1.
- If, before full retirement age, a retiree works outside the U.S. in employment or self-employment that is not subject to U.S. social security taxes, retirement benefits are withheld for each month in which the retiree works more than 45 hours, without regard to income, because the worker will not be considered retired. If the worker works fewer than 15 hours a month, the worker will be considered retired. . Work for this purpose may include having an agreement to work but not working because of vacation or illness or receiving income as the owner or part-owner of a trade or business even if the retiree does no actual work in the trade or business.
- Full retirement age is 66 for people born in 1943, gradually increasing to 67 for people born in or after 1960. There are special rules for the year in which a retiree reaches full retirement age.
- Due to its length, this article is very limited in scope. This article does not cover, among other things, persons with pensions from work not subject to social security tax, such as government jobs, or income earned by ministers or other employees of churches or other religious organizations, or spouses or dependents and survivors, and may other factors that may affect a particular person's rights and liabilities under the U.S. social security program. In addition, it does not cover Medicare or state taxes.

- N.B. This article is intended for general information purposes only and not to provide legal advice. The social security and income tax laws are very complex and frequently change. Consult a lawyer to find out how the laws and rules apply to your specific situation.