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American Citizens Abroad Statement for the Record to  
House Ways and Means Subcommittee on Social Security hearing entitled  
**“Field Hearing on Social Security’s Disservice to Public Servants: How the Windfall Elimination  
Provision and Government Pension Offset Mistreat Government Workers”**

November 29, 2023

American Citizens Abroad, Inc., hereby submits our Statement for the Record.

American Citizens Abroad, Inc. (ACA) is a leading advocacy organization representing Americans living and working overseas. Headquartered in Washington, DC, ACA is nonpartisan, non-profit (section 501 (c)(4)), with a 40-plus-year history of advocating on behalf of the community of Americans living and working overseas. Alongside ACA is its sister charitable (section 501(c)(3)) research and educational organization, American Citizens Abroad Global Foundation (ACAGF).

#### **EXAMINING THE WINDFALL ELIMINATION PROVISION<sup>1</sup>**

ACA is grateful to the House Ways and Means Committee and its Social Security Subcommittee for the November 20, 2023, field hearing exploring the impact of the Windfall Elimination Provision (WEP) and Government Pension Offset on public service employees. U.S. citizens living abroad suffer the impact of the WEP in the same way as U.S. government employees; when over the course of their working lives they generate income both from sources abroad that do not withhold for Social Security and from sources in the U.S. that do withhold for Social Security, the WEP formula is used to reduce their duly earned Social Security benefits.

The WEP reduces the Social Security (SS) benefits for individuals by up to 50% of their foreign pension benefits. The WEP impact is reduced by the number of years an individual has contributed to Social Security and only applies to individuals with foreign pensions who have contributed for between 10-29 years to Social Security with the maximum monthly reduction (2023) being the lower of \$557.50 and 50% of your foreign pension benefit. Self-employed Americans living abroad often must pay SECA taxes in addition to the social security taxes they pay in their country of residence. No voluntary program exists for non-self-employed Americans to contribute to the Social Security system.

In the words of Congressman Graves, “[WEP] is a real penalty that affects real people.” Research on U.S. citizens living abroad published in 2019 indicates that one in six retirees have their Social Security benefits reduced by WEP. Of those impacted by WEP reductions, more than 56% say their payments are reduced by more than 25% and more than 57% say this makes a modest to very big impact on their household budget.<sup>1</sup>

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<sup>1</sup> Democrats Abroad, “Tax Filing From Abroad: Research on Non-Resident Americans and U.S. Taxation,” March 2019, p27-28.  
<https://bit.ly/TaxFilingFromAbroad2019>

Their feelings about WEP<sup>2</sup> echo those expressed by the field hearing witnesses:

- they are normally surprised by the WEP adjustment to their estimated SS benefit and are upset by the need to make unanticipated changes to their retirement plans;
- their initial disbelief quickly turns to disappointment and anger;
- they understand the need to preserve and protect the Social Security Trust Fund, but feel betrayed that they are denied benefits that they earned; and
- they support urgent change.

## **SOCIAL SECURITY ADMINISTRATION SUPPORT**

Americans abroad who are accessing SS benefits need dedicated support from the Social Security Administration. This includes:

1. on-line viewing of their accounts,
2. assistance for first-time applications for Social Security numbers and
3. a dedicated outreach for overseas Americans with questions and problems.

Currently Social Security services are provided through the Federal Benefits Units located in U.S. Consulates and Embassies. With more and more individuals coming into compliance and needing assistance with obtaining or reclaiming Social Security numbers and with questions on their benefits, the Social Security Administration needs to expand its outreach and provide more direct assistance.

ACA applauds the actions of the Social Security Administration to expand access to Social Security information for Americans abroad. U.S. citizens living outside the U.S. can now create a personal *my Social Security account* and access many online services using their *ID.me* credential. We anticipate a large and rapid uptake of this service.

As highlighted in the hearing by retired Louisiana firefighter Bernard “Bernie” Piro, however, the problem is that Social Security provides little information for WEP-impacted earners through the course of their working life. “They are unprepared for lower Social Security payments when they retire. If they [understood WEP] earlier in their career they might make different choices.” Another witness, retired Louisiana teacher Paula Porter, also indicated that had she understood WEP better, she might have made different choices, however she believed careers in public services should be protected by policy changes that make things better. ACA believes the same is true for careers overseas.

## **LEGISLATION**

Legislation calling for the full repeal of WEP was reintroduced in the new 118th Congress under House bill *H.R.82 - Social Security Fairness Act of 2023* as well as under the Senate version *S.597 - A bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions*.

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<sup>2</sup> Democrats Abroad, “Tax Filing From Abroad: Research on Non-Resident Americans and U.S. Taxation,” March 2019, p29-30. <https://bit.ly/TaxFilingFromAbroad2019>

ACA stresses that any corrective measure addressing WEP must include U.S. citizens overseas who receive benefits from foreign pensions which can trigger the WEP application of reduced benefits to their U.S. Social Security benefits.

Our view echoes these comments by hearing witness Patrick Yoes, Retired Louisiana Law Enforcement Officer and National President, Fraternal Order of Police:

*“We paid for our pension. We paid into it. Just like when someone in the private sector pays into their 401k or any other retirement plans. It has taken 40 years to realize they got [legislation to “right size” SS benefits] wrong. Now we have an opportunity and should fix it.”*

Foreign pensions should not count against or reduce U.S. Social Security benefits earned while working in the United States. U.S. citizens living abroad receiving foreign pensions are not “double dipping;” their non-U.S. retirement benefits were duly earned abroad, as were the benefits they earned by contributing fully to U.S. Social Security system during their U.S. working years.

We note Rep. Clay Higgins statement of support for H.R. 82 during the hearing:

*“If a law in our beautiful country, even well-intentioned, is found to be unrighteous by any reasonable measure, it becomes clear, out of fairness, that you don’t change the definition of righteousness. You don’t eliminate the rights of the citizenry. You eliminate the law.”*

## **CONGRESSIONAL HEARINGS AND U.S. CITIZENS ABROAD**

Ways and Means Committee Chairman Smith’s opening statement to the hearing noted that this was the Committee’s 6<sup>th</sup> hearing held outside Washington to hear directly from working families and the first Subcommittee hearing the Committee has held outside the halls of Congress in almost a decade.

Congressman Estes noted –

*“It’s refreshing for our Committee to hold field hearings away from the nation’s capital so that we can hear directly from Americans that are impacted by our policy decisions or policy decisions that were made years ago.”*

ACA believes that the time has come for the Congress to hold hearings on the issues affect Americans abroad and would strongly encourage the Ways and Means Committee to give consideration to Field Hearings in locations outside of the U.S. ACA can put Congress in touch with citizens and area experts who can provide testimony to illuminate issues important to citizens abroad such as SS benefits, financial account access, taxation, Medicare, veterans’ benefits and more. ACA has done important work on the subject of US citizens overseas, including independent research fielded with District Economics Group (DEG), a DC-based consultancy on the tax and compliance issues of the 5.2million US citizens overseas.<sup>3</sup> ACA’s work, along with others needs to be put on official record through Congressional hearings.

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<sup>3</sup> [ACA/DEG Analysis of Revenue Effects of Residence-based Taxation - 04-28-2022: Americans Abroad in Washington, DC](#)

Recently Congresswoman Titus introduced H.R. 2729 which would call for the creation of a commission to begin investigating the concerns of this community supporting the fact that there is a Congressional lack of data and information.<sup>4</sup> This Commission would be an excellent start to the process of holding field or on-site hearings which would provide invaluable information and data to help in crafting remedies to some of the problems affecting this important constituency.

ACA would like to thank the House Ways and Means Committee and Social Security Subcommittee for the opportunity to submit this statement. For more information, please visit the ACA website [www.americansabroad.org](http://www.americansabroad.org).

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<sup>i</sup> American Citizens Abroad joins the Polish-American Strategic Initiative, Democrats Abroad and other organization advocating on behalf of Americans who live and work, or used to live and work, outside the U.S. in this general statement about the Windfall Elimination Provisions (WEP).

The Social Security Administration defines the WEP as follows:

“The Windfall Elimination Provision is a formula used to adjust Social Security worker benefits for people who receive ‘non-covered pensions’ and qualify for Social Security benefits based on other Social Security–covered earnings. A non-covered pension is a pension paid by an employer that does not withhold Social Security taxes from your salary, typically, state and local governments or non-U.S. employers.”

The Social Security Administration, therefore, defines the legally-earned foreign pension of a Foreign Pension Recipient as a non-covered pension.

**The second sentence of this definition invalidates the Social Security Administration’s application of the WEP formula to a Foreign Pension Recipient’s Social Security pension.**

This is because the Totalization Agreements between the United States and the countries in which the Foreign Recipients worked are bilateral tax treaties that exempt them from paying into Social Security and their residing country’s retirement systems at the same time on the same earnings. The Social Security Administration’s application of the WEP formula to a Foreign Pension Recipient’s Social Security pension, therefore, is both baseless and unjust.

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<sup>4</sup> [H.R. 2729 - 118th Congress \(2023-2024\): Commission on Americans Living Abroad Act of 2023 | Congress.gov | Library of Congress \(The Commission on Americans Living Abroad Act\)](https://www.congress.gov/bills/118/house/2729/summary)