

Social Security while working?



HELP WANTED

**Carrie
Mason-Draffen**

carrie.mason-draffen@newsday.com

DEAR CARRIE: I have a friend who is still working full-time at age 74, earning about \$40,000. He told me he is also collecting full Social Security benefits. Is that possible and, if so, why? That doesn't seem right to me, especially since Social Security is in jeopardy. — *Dubious Benefit*

DEAR DUBIOUS: Your friend's age makes it legal for him to collect full benefits and earn as much as he does, said employment attorney Troy G. Rosasco of Turley, Redmond, Rosasco & Rosasco in Ronkonkoma.

"If you work and are full . . . retirement age or older, you may keep all of your Social Security retirement benefits, no matter how much you earn," Rosasco said.

Social Security's full retirement age for people born in 1942 or earlier, a category your friend falls into, is 65. On the other hand let's say you chose to receive benefits before full retirement age, for example at age 62, "not only is there a reduction in

your monthly benefit for the rest of your life, there is also a limit to how much you can earn and still receive until you reach full retirement age," Rosasco said.

If you are younger than full retirement age, then during all of 2010, Social Security would have deducted \$1 from your benefits for each \$2 you earned above \$14,160, Rosasco said.

"It should also be stressed that delaying receipt of your retirement benefits anywhere between full retirement age to age 70 can significantly increase your monthly benefit," Rosasco said. He takes issues with your concern that your friend is adding to Social Security's financial woes.

"Your friend is not bankrupting Social Security since both he and his current employer are still paying payroll taxes into the system," Rosasco said. "[By working] he is actually helping us all since most Social Security recipients take more money out of the system than they put in over their working careers."

DEAR CARRIE: I work at a small retail business that is open seven days a week. Anyone who works more than 40 hours receives cash, but not at an overtime rate. Is this legal?

— *OT is MIA*

DEAR OT: Whether the overtime policy is legal depends on the status of the employees. If they are nonexempt, which generally means hourly, they must be paid overtime when they work more than 40 hours in a workweek. Under federal labor laws, the overtime rate is at least 1 1/2 times a worker's regular hourly rate.

By contrast, exempt employees, which includes bona fide managers, don't have to be paid for overtime or even for all the hours they work.

DEAR CARRIE: In January 2008 I lost my job. Up until then I had been working full-time for about 40 years. I collected unemployment insurance for three or four weeks until I purchased a small business. If the economy does not pick up this year, I will have to close. I have not collected any salary during the time I have owned the business. If I do close, would I be eligible for unemployment insurance?

— *Biz Owner Benefits?*

DEAR BIZ OWNER: You could be eligible for benefits if the business is incorporated because you would be considered an employee of the company. Otherwise, you're probably out

of luck.

It's worth noting that the definition of "working" for business owners is strict for unemployment-benefit purposes. Here's what the Labor Department's website says:

"You are considered to be employed if you are engaged in operating or starting a business either by yourself, with a partner or in a corporate arrangement. Time spent during the day or evening or on weekends preparing to start or actually operating a business may be considered employment even though no sales are made nor any compensation received."

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Call Carrie Mason-Draffen with workplace questions at 631-843-2791, or e-mail her at carrie.mason-draffen@newsday.com. Your name and number won't be published. Not all questions can be answered; some may be edited for length and clarity.