



SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2023-0005]

Finding Regarding Foreign Social Insurance or Pension System of Cambodia

AGENCY: Social Security Administration.

ACTION: Notice of finding regarding foreign social insurance or pension system of Cambodia.

SUMMARY: We find that, under the Alien Nonpayment Provision of the Social Security Act (Act), citizens of Cambodia may continue to receive Social Security benefits under title II, after 6 consecutive months of absence from the United States, without regard to length of absence, if they meet certain conditions. This finding is based on our analysis of information and data we received about the social insurance system of Cambodia and its laws. The Commissioner of Social Security delegated the authority to make this finding to the Deputy Commissioner for Retirement and Disability Policy.

DATES: We will implement this finding on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Icie K. Allen, Office of Income Security Programs, 2500 Robert Ball Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-8945. For more information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <https://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

We are prohibited, by law, from paying benefits under title II of the Act to non-U.S. citizens who remain outside the United States for more than 6 consecutive calendar

months, unless they meet an exception provided in the law. We refer to this portion of the law as the Alien Nonpayment Provision (ANP).¹

We recently reviewed the Cambodian social insurance system to determine if it meets the criteria for an ANP exception. This is a new finding about the social insurance system of Cambodia under the ANP. As a result of this finding, citizens of Cambodia may continue receiving benefits under title II of the Act after 6 consecutive calendar months outside the United States if they meet one of the following conditions:

1. Their benefits are based on the earnings of an individual who earned at least 40 quarters of coverage, or
2. Their benefits are based on the earnings of an individual who had periods of U.S. residency that add up to at least 10 years.

Background:

The ANP, section 202(t) of the Act, prohibits payment of title II benefits to individuals who are not U.S. citizens or nationals for any month after they have been outside the United States for more than 6 consecutive calendar months. Beneficiaries who meet one of the exceptions described in the ANP may continue to receive benefits under title II without regard to absence from the United States. Some of these exceptions require that dependents and survivors meet a 5-year U.S. residency requirement for benefits to continue after 6 consecutive calendar months of absence from the United States.²

To determine whether the social insurance or pension system meets the criteria for an exception under section 202(t)(2) of the Act, we review the foreign country's laws. In addition, we review information and data that we receive from the administrators of the social insurance or pension system of that country. The Commissioner of the Social Security Administration publishes these findings in the *Federal Register*.

¹ Section 202(t) of the Act, 42 U.S.C. 402(t).

² Section 202(t)(2), (4), (11) of the Act, 42 U.S.C. 402(t)(2), (4), (11).

On July 26, 1958, we published a list of countries that did not meet the requirements of section 202(t)(2), which included Cambodia.³ Cambodia did not meet 202(t)(2) because it did not operate a social insurance or pension system of general application. However, the exceptions provided under section 202(t)(4)(A) and (B) did apply to qualified citizens of Cambodia.

The exceptions under section 202(t)(4)(A) and (B) no longer applied to citizens of Cambodia from April 1975 through November 2001, because the U.S. Department of the Treasury imposed payment restrictions for Cambodia.⁴ The U.S. Department of the Treasury lifted those payment restrictions effective December 10, 2001⁵ and we updated our regulation in September 2009⁶ accordingly.

We requested information from Cambodia to make an updated finding of Cambodia's status under section 202(t)(2) of the Act. In June 2014, we received a completed Form SSA-142, *Report of Social Insurance or Pension System*, from Cambodia. We initiated an analysis to reach the finding we describe here.

On September 25, 2002, Cambodia enacted the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law. This law contains provisions for the earned right to benefits based on contributions from employment covered under Cambodia's social security scheme. However, our review indicates that Cambodia's social insurance system is not in effect because Cambodia does not currently collect contributions or pay pension benefits as of the date of this Finding.

Finding:

Section 202(t)(2) exception

³ 23 FR 5673 (July 26, 1958).

⁴ 40 FR 19202 (May 2, 1975).

⁵ 66 FR 63623 (Dec. 10, 2001).

⁶ 74 FR 48855 (Sept. 25, 2009).

Section 202(t)(2) of the Act provides that the prohibition against payment shall not apply to individuals who are citizens of a foreign country that the Commissioner of Social Security finds has a social insurance or pension system that is in effect and of general application in such country, and that:

(A) pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(B) permits individuals who are U.S. citizens but not citizens of that country and who qualify for benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

We find that Cambodia does not meet the conditions in section 202(t)(2) of the Act because the social insurance system of Cambodia is not in effect. This finding is effective January 1, 2002, the first month after the U.S. Treasury restriction was lifted. This finding under section 202(t)(2) does not preclude consideration of section 202(t)(4)(A) and (B).

Section 202(t)(4) exception

We find that the ANP exceptions in 202(t)(4)(A) and (B) below apply to citizens of Cambodia in specific instances, as discussed in the next two paragraphs.

Section 202(t)(4)(A) of the Act provides that the prohibition against payment shall not apply to the benefits payable on the earnings record of an individual who has at least 40 quarters of coverage under Social Security.

Section 202(t)(4)(B) of the Act provides that the prohibition against payment shall not apply to the benefits payable on the earnings record of an individual who has resided in the United States for a period or periods aggregating 10 years or more.

Both exceptions are subject to residency requirements: Section 202(t)(11) requires that dependent and survivor beneficiaries must have resided in the United States for 5 years or

more while in a qualifying relationship with the individual on whose earnings the benefits are based.

Moreover, the exceptions in section 202(t)(4)(A) and (B) will not apply if:

- The individual is a citizen of a foreign country that has in effect a social insurance or pension system that is of general application and that pays periodic benefits (or the actuarial equivalent) on account of old age, retirement, or death; but the social insurance or pension system does not pay benefits to qualifying U.S. citizens without regard to the duration of the absence from the foreign country; or,
- The individual is a citizen of a foreign country that has no social insurance or pension system of general application and at any time within 5 years before January 1968 (or the first month after December 1967 in which benefits are subject to ANP suspension), the individual was residing in a country to which payments were withheld by Treasury under 31 U.S.C. 3329(a) and 3330(a).

We apply this finding from January 1, 2002, the first month after the U.S. Department of Treasury lifted the statutory restriction on foreign payments.

Our finding that section 202(t)(4)(A) and (B) apply to citizens of Cambodia is subject to section 202(t)(11). Section 202(t)(11) requires that dependent and survivor title II beneficiaries must also have resided in the United States for a total period of 5 years or more while in a qualifying relationship with the individual on whose earnings the benefits are based.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security – Disability Insurance; 96.002, Social Security – Retirement Insurance; and 96.004, Social Security – Survivors Insurance)

The Commissioner of the Social Security Administration, Martin O'Malley, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison,

Office of Legislation and Congressional Affairs,

Social Security Administration.

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