

2015 Social Security Changes Will Hit Couples & Divorced Women Hardest

By Scott Farnsworth, Personal Asset Advisors

On November 2, 2015, President Obama signed into law the Bipartisan Budget Act of 2015. Among its provisions are changes that shut down two popular Social Security claiming tactics: the file-and-suspend and the restricted-application strategies. This article explains the changes to the Social Security laws.



Two major hits...

The federal budget deal that President Obama signed November 2 eliminated two strategies that allowed married couples to share Social Security benefits in ways that could potentially increase their net income by more than \$50,000 over their lifetimes.

These strategies, known as "file-and-suspend" and "filing a restricted application for spousal benefits," have allowed both halves of a couple to delay claiming benefits based on their own earnings records. That gives both an opportunity to maximize their workers' benefits, which can

grow 32% by the time each spouse reaches age 70. Meanwhile, one spouse could claim a spousal benefit only, giving the couple a little cash flow while their workers' benefits grow.

File and suspend. Currently, a married person — typically the higher wage earner in a couple — who's at least full retirement age could file for his or her own Social Security benefits and then immediately suspend those benefits while the spouse could file for spousal benefits. By doing this, the higher wage earner's benefits would grow 8% per year. In the meantime, the couple still get a Social Security check, and down the road the surviving spouse could get a higher benefit. That option is ending for new filers starting May 1, 2016, so if you're interested, now's the time to apply. People already using this strategy will be grandfathered in until age 70.

Restricted application. This is also being phased out. Currently, individuals eligible for both a spousal benefit based their spouse's work record and a retirement benefit based on his or her own work record could choose to elect only a spousal benefit at full retirement age, according to Social Security Timing. That would let them collect a higher benefit later on. Under the new law, however, only those born Jan. 1, 1954, or earlier can use this option. Anyone younger will just automatically get the larger of the two benefits.

"Nasty stuff" Laurence Kotlikoff, professor of economics at Boston University and author of "Get What's Yours: The Secrets to Maxing Out Your Social Security," thinks the change is unfortunate and counterproductive. "A lot of people are going to be hurt by this. It's very nasty stuff. I don't think that members of Congress had any idea what they were voting for. It was pushed through by people who think that they know everything and can play God. The victims are people who are counting on this money. It could be \$50,000 for a lot of people. That is an average wage for 1 year in this country. We're talking about a lot of money for middle-class people."

The new rules are still in flux. It is expected that Social Security will provide instruction on the way the new rules will be interpreted by the end of the year. It is also likely that Congress will pass some tweaks to eliminate "unintended consequences." Meanwhile, some people have a 6-month window of opportunity to take action before the new rules kick in.

If you're currently using these strategies. You are probably grandfathered. Just keep doing what you are doing. If you are 66 or older and you think you might want to suspend your benefits in the next 4 years, now's the time to do it. Some people have read this bill to mean Social Security is going to remove some workers on suspension and put them back on worker (benefits) only. It isn't 100% clear what the intent was, but in the past, we haven't seen Social Security take away benefits that people are already receiving and it's unlikely they'll do it this time.

One thing this law didn't change is the need to understand your options and make a plan. If you are confused about how these changes affect you, get help during the next 6 months while you may still have a chance to choose a strategy that will soon disappear. [Read more details below:](#)

If you're married...

The impact on planning for couples is nuanced. There are now three sets of rules:

1. For people born on or before May 1, 1950

People born on or before May 1, 1950 (those who turn 66 for Social Security purposes in April 2016) have access to voluntary suspension that allows auxiliary beneficiaries (the spouse of a retired worker and the children of a retired worker) to claim as long as the request for voluntary suspension occurs on or before April 30, 2016, and can file a restricted application at any time between ages 66 and 70.

Restricted application: With a restricted application, an individual who was eligible for both a spousal benefit based on the work record of a spouse and a retirement benefit based on his or her own work could choose to take only a spousal benefit at full retirement age. This allowed his or her own benefits to accumulate 8%-a-year delayed retirement credits, and then they could switch to their own larger benefits at any point in the future up to and including age 70. **The new law phases out this option.**

Voluntary suspension: Under the existing (old) law, the higher wage earner in a couple could file for Social Security benefits and then immediately request those benefits be suspended. The checks to the higher wage earner would stop, which allowed for their benefits to grow 8% a year. While the benefit was suspended, the lower wage earner spouse could collect a spousal benefit. Under the new law, only people who suspended their benefits in the past or within the first 180 days after enactment of the new bill will be covered under the old rules, and they will continue to fall under the old rules until they reach age 70 or un-suspend their benefits.

If either you or your spouse are turning 66 in the next 6 months, you can apparently still use both of these strategies as long as you and your spouse reach full retirement age in the 6-month grace period, which started Nov. 2. File and suspend sooner rather than later. If you are 66 or older or you turn 66 within the next 6 months, there might be an advantage to filing and suspending your benefits if that was your strategy. If the changes are retroactive, your filing may be disallowed. The worst case is that if you file and suspend now and the rules are applied retroactively, you aren't

going to cost yourself anything. If they aren't applied retroactively, then you have lost the opportunity. .

2. For people born on or after May 2, 1950, but before January 2, 1954

People born on or after May 2, 1950 but before Jan. 2, 1954 can still do a restricted application under the new law. However, voluntary suspension will also suspend the benefits of other auxiliary beneficiaries, including spouses and children, and under this change to the law, the spouse benefiting cannot receive spousal excess while a voluntary suspension is in effect. (The spousal excess is the difference between one half of the higher wage earner's full retirement benefit and the lower wage earner's spouse's full retirement benefit.)

If you're turning 62 this year or are already 62 but not yet full retirement age: Once you reach full retirement age at 66, you still will be able to file a restricted application for only a spousal benefit as long as your spouse also has reached full retirement age and is claiming a benefit. The big change is that triggering the spousal benefit is more difficult. After 180 days, your spouse won't be able to do a file and suspend to trigger spousal benefits. One spouse will actually have to claim in order to trigger benefits for the other.

3. For people born on or after January 2, 1954

For these people: Under the new law, voluntary suspension suspends the benefits of the spouse and children, and the lower wage earner cannot receive spousal excess. There is also no option for a restricted application.

If you'll be younger than 62 on Jan. 1, 2016: Anyone who doesn't turn 62 by the end of this year will lose the right to claim spousal benefits only. If you are entitled to both spousal and worker benefits, you'll be deemed to be filing for the largest benefit possible -- your own or your spousal with no better option. Here's one small Social Security quirk: Those who turn 62 on Jan. 1 are deemed to have turned 62 in 2015. If you are a Jan. 1 baby, this strategy is still available to you. The people born on the 2nd don't get it.

If you're divorced...

Rules for divorcees are very similar to rules for married couples. See the rules above as they apply to retirees and their dates of birth.

Under the old rules, you could claim a spousal benefit at 66 as long as your divorced spouse was 62, and delay claiming your worker's benefit until it reached its maximum value at age 70. That option has been eliminated. When you file, you'll be deemed to be filing for the largest benefit possible.

If you're a widow or widower...

Notably all of these changes concern the interaction between retirement and spousal benefits, and do not include widow benefits. So, widows will continue to have the opportunity to restrict an application to only widow or only retirement benefits and later switch to the other benefit. Widows and widowers are mostly unaffected. Survivors who are eligible for both earned and survivor benefits will continue to have two strategies available to them. They will continue to be able to start with a survivor benefit at age 60, then switch to a higher worker's benefit anytime up until age 70. Or under some circumstances, a widow may find it advantageous to start with a worker's benefit at age 62 and switch to a higher survivor's benefit at full retirement age.

If you're single...

Rules for singles (which would include divorcees who were married for less than 10 years) were not affected by these recent changes.

Questions and answers

Question: At 66 years of age, my full retirement age (FRA), I filed for Social security benefits and immediately suspended. My wife, also 66 (her FRA), filed for spousal benefits only on my account. We initiated this in August, 2014 and have received spousal benefits each month since September, 2014. Now, I am at a complete loss on what to do next because of the new law. We are both working full time and our intent is to maximize our Social Security benefits and start taking it at 70. How do we do this under the new law?

Answer: You will squeak under the wire for the effective dates of the new Social Security rules. The file-and-suspend changes will affect only new requests to suspend, starting six months from bill being signed into law, so there's no problem with your already-requested suspension. And the changes to spousal benefits affect only people born Jan. 2, 1954 and later, so your wife's benefits also will not change.

For a personal consultation about these changes and how they will affect your personal retirement plans, please call Scott Farnsworth at 407-593-2386 or visit www.PersonalAssetAdvisors.com. *Now you have a friend in the business.*