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Timing is (Still) Everything – Social Security Strategies After the Bipartisan Budget Act of 2015

Summary

On November 2, 2015, President Obama passed the Bipartisan Budget Act of 2015. The new law contains significant changes to Social Security's claiming strategies. But there is still time for some of our clients to take advantage of these claiming strategies.

Related Information

[Social Security – The Basics \(01/16\)](#).

An introduction

Social Security remains the largest source of retirement income for most retirees¹. While the Bipartisan Budget Act of 2015 (the Act)² eliminates some of the Social Security claiming strategies, the conversation around Social Security is not dead. It is still vitally important to discuss the importance of timing the onset of Social Security benefits with our clients. This is especially true for married couples where the coordination of each of their respective benefits can increase a couple's total Social Security retirement income stream throughout both of their lifetimes.

So, who is affected by these changes? The following chart will provide a reference point as it relates to married couples.³ We will go into detail on each of these changes throughout the article.

	Married Couples	
	File and Suspend	File a Restricted Application
Age 66 or older on April 30, 2016 (i.e. born April 30, 1950 or earlier).	Able to File and Suspend, but must do so by April 30, 2016. Must be at least FRA or over to do this.	
Age 62 or over at the end of 2015 (i.e. born January 1, 1954 or earlier).	File and Suspend no longer an option.	Can file a restricted application – must be at FRA to do so.
Younger than age 62 at the end of 2015 (i.e. born January 2, 1954 or later).	File and Suspend no longer an option.	Filing a restricted application no longer an option.

¹ Social Security Fact Sheet (October 13, 2015)

² H.R. 1314 –Bipartisan Budget Act of 2015 (114th Congress 2015-16)

³ Note these changes also impact certain divorced spouses who meet various criteria. The article will go into detail as it relates to divorcees as well.

With a few small exceptions discussed in this article, the basics of Social Security have not changed. These rules are outlined in the Advanced Planning Bulletin article titled “Social Security – The Basics,” which is available on the Advanced Planning Library. If you are unfamiliar with the basics, please spend some time reading this valuable information.

So, what has changed under the Act? And, more importantly, what can we still do?

The strategies

1. The File and Suspend strategy sunsets on April 30, 2016.

- a. *How the File and Suspend strategy worked.* With the File and Suspend strategy, an individual who had attained Full Retirement Age (FRA) would apply for benefits and simultaneously suspend actual receipt of the benefit.⁴ The individual’s spouse and/or eligible children could then begin to collect spousal or family benefits, while the retiree’s own benefit earned Delayed Retirement Credits (DRCs). This voluntary suspension begins the month immediately following the month in which the request is made. The spouse filing and suspending had to be at FRA to take advantage of this strategy; it was never available to workers who claimed benefits early.
- b. *What changed under the Act?* The Act didn’t change the ability for someone who is his or her FRA to suspend his or her benefits and receive DRCs. What changes after April 30, 2016 is the ability for a spouse or dependent to collect off of that individual’s benefit *that is in suspension*. Those “auxiliary benefits” will now only be available if the primary worker is actually collecting his or her retirement benefit.

The Act also eliminates the option to recover, in a lump sum, previously suspended benefits if the suspension occurs after April 30, 2016.

- c. *What options remain?* Those who are 66 or will turn age 66 by April 30, 2016 are grandfathered in, but it is imperative that they act quickly. Those individuals should determine whether File and Suspend will work to their advantage. The timing is essential – if a client wants to take advantage of this strategy, he or she needs to file and suspend Social Security benefits prior to April 30, 2016.
- d. *A few examples.*⁵ Example 1: Mike is 66 (his FRA) and his wife, Christine, is 62. Mike is the primary wage earner, and his benefit at age 66 is \$2,000. He wants to wait to receive his benefit until age 70, but he would like Christine to be able to receive some income now. Because Mike is at his FRA, he can file for his benefit and immediately suspend it before the April 30, 2016 window closes, allowing his benefit to earn DRCs until he is age 70. Christine can now apply for a spousal benefit off of his suspended record, which will be reduced because she is filing for benefits early. The most Christine can receive as a spousal benefit is 50% of Mike’s PIA of \$2,000, or \$1,000. Because she is applying early at age 62, her spousal benefit will be reduced to 35%, giving her a monthly spousal benefit

⁴ Remember that a spouse or other eligible dependent can only collect a spousal or dependent benefit if the retired worker has *applied* for his or her benefit. Thus, the filing and suspending of the benefit is required to “open the door” to a spouse (or eligible dependent to collect a benefit off of that worker’s record.

⁵ None of the examples in this publication take into account cost of living adjustments (COLAs), which would increase the benefit amounts.

of \$700. When Mike turns 70, he will start collecting his higher benefit, which will have grown to \$2,640 from the DRCs of 8% per year.

Example 2: Same facts as in Example 1, but Christine is only 61. Christine can still collect a spousal benefit off of Mike's suspended benefit when she attains age 62, even though she turns 62 after the April 30th deadline. It is only the file and subsequent suspension that need to occur by this deadline. The claiming of auxiliary benefits – spousal benefits in this case – can occur after the April 30th deadline.

Example 3: Jennifer is 64 and her husband, Frank, is 62. Jennifer is the primary wage earner, and her benefit at age 66 is \$2,500. She was hoping to wait until age 70, but Frank is anxious to begin collecting the spousal benefit. Jennifer and Frank are not grandfathered in under the new rules. So, if Jennifer waits, Frank waits. If Jennifer begins collecting her benefit, Frank can then apply and start receiving spousal benefits. It is only when Jennifer decides to apply and actually starts collecting her benefit that she has "opened the door" for Frank to collect the spousal benefit.

Example 4: Joan is 66 years old and single. She has heard that she should delay until age 70 to collect DRCs. She also heard that if she suffers a health issue or other unexpected event that could cut her retirement years short, she could apply for back benefits from the date she suspended the payment and collect those benefits in a lump sum. Joan is grandfathered, but she must go into Social Security and file and suspend before April 30, 2016 in order to maintain this option.

Example 5: Sanford is age 66; his wife, Monica, is age 63. Sanford's monthly worker's benefit is \$1,000 and Monica's is \$2,000. They want to earn DRCs on both of their benefits. Since only Sanford is grandfathered, he should file for his own benefit and immediately suspend actual receipt of it before April 30, 2016. This allows Sanford's benefit to earn DRCs and preserves Monica's right to claim a spousal benefit off of his record.

Because they want to also grow Monica's benefit, she should wait until her FRA to claim a spousal benefit. When Monica attains her FRA in 2019, she will file a restricted application⁶ for a spousal benefit off of Sanford's record, giving her \$1,000 per month (50% of his PIA). Once Sanford reaches age 70, he will start receiving his own higher worker's benefit of \$1,320. Monica will continue to receive a spousal benefit until she reaches her age 70, at which point she will switch over to her own higher worker's benefit of \$2,640.

Example 6: Keisha is 62 years old with two young children, ages 16 and 14. Keisha will not be FRA by the April 30 deadline, so she can't take advantage of the File and Suspend strategy at this point. She can instead file early to "open the door" for her children to both collect dependent's benefits.⁷ Her benefit will be reduced on account of filing early, but, when Keisha turns FRA (and her children have both "aged out" of the dependent benefits), she can then "suspend" her benefits and earn DRCs of 8% per year on her (lower) benefit. Remember, the ability to suspend the retirement benefit between FRA and age 70 (and earn DRCs) has not been impacted by the Act. What has changed is the ability of another to collect a spousal or dependent benefit off of a suspended worker benefit.

⁶ This strategy, known as "Claim Now, Claim More Later" is discussed in additional detail in Section 2 below.

⁷ Because she has filed early, her benefit (and those of her dependents) may be impacted by the Earnings Rule.

2. Claim Now, Claim More Later (a/k/a “Spousal Switch”) has also been eliminated.

- a. *How the Claim Now, Claim More Later strategy worked.* With the Claim Now, Claim More Later strategy, the lower-earning spouse applied for her own worker benefit. The higher-earning spouse, at FRA, filed a “restricted application,” restricting his application to his spousal benefit. This allowed the higher-earning spouse to claim a spousal benefit while allowing his own worker benefit to earn DRCs. At any point after FRA up to age 70, the higher-earning spouse then switched to his own higher, worker’s benefit and the spousal benefit stopped.

Remember, the lower-earning spouse must have applied for her worker’s benefit before the higher-earning spouse could claim a spousal benefit. Additionally, the spouse who wanted to claim the spousal benefit first and then switch to his own benefit later, must have been at least FRA in order for this strategy to work.

- b. *What changed under the Act?* The Act extends the concept of a “deemed” filing and eliminates “restricted applications”. Under the old law, when a Social Security applicant applied for benefits before FRA, it was considered a “deemed” filing - i.e. that person was “deemed” to have filed for all available benefits and would automatically receive the highest available benefit. So, if that person’s own worker’s benefit was higher than the spousal benefit, the applicant would receive his or her own benefit. This “deemed” filing ended at FRA, allowing an individual to file a “restricted application” for spousal benefits only while allowing his or her own benefit to earn DRCs.

The Act extends “deeming” through age 70 for anyone who turns age 62 on or after January 1, 2016. This means that a person can no longer file a restricted application for a lower, spousal benefit at FRA and allow his or her own benefit to continue to grow. The applicant will automatically be given the highest available benefit regardless of when he or she files.

- c. *What options remain?* Individuals who are at least age 62 by December 31, 2015 are grandfathered in and may still take advantage of the Claim Now, Claim More Later strategy by filing a restricted application
- d. *A few (more) examples.* Example 7: Steve is age 62 and his wife, Georgia, is age 64. Steve is the primary wage earner and his benefit at age 66 (his FRA) is \$2,500. Georgia’s benefit at her FRA, also age 66, is \$1,000. Steve would like to wait to age 70 to receive his own benefit and would like to receive his spousal benefit now. Since they are both age 62 or over by the end of 2015, they are grandfathered in and are still able to use the Claim Now, Claim More Later strategy.

Georgia files for her benefit at age 64 rather than wait until FRA. She will receive a reduced benefit of \$870 per month. Four years later, when Steve attains his FRA, he files a restricted application, applying for his spousal benefit of \$500 per month (50% of Georgia’s PIA of \$1,000 – not reduced because Steve is at his FRA). Together the couple is receiving \$1,370 per month in Social Security benefits. In the meantime, Steve’s own worker’s benefit continues to earn DRCs. At age 70, Steve’s benefit has grown to \$3,300, at which point he switches over to his own, higher benefit and his spousal benefit stops. The couple’s monthly income is now \$4,170.

But wait, there's more! When Steve switches to his own benefit at age 70, this is the first time that he has applied for his own worker's benefit. At this time, Georgia may want to "switch" to her spousal benefit. Keep in mind that the spousal benefit does not earn DRCs, so Georgia's spousal benefit would be limited to \$1,250 per month (50% of Steve's PIA of \$2,500). Further, Georgia's reduction (because she applied early) would carry over to her spousal benefit. So, Georgia would receive \$1,250 minus \$130, or \$1,120 per month, which would be higher than the \$870 per month she is currently receiving.

Example 8: Harry is age 62 and his wife, Juanita, is age 60. Juanita is the primary wage earner, and her benefit at her FRA (age 66 and 2 months) is \$2,500. Harry's benefit at his FRA (age 66) is \$1,500. Because Harry is age 62 by the end of 2015, he is still able to use the Claim Now, Claim More Later strategy. However, it is Juanita's benefit that the couple wants to see grow. The challenge is that Juanita needs to apply for her own worker benefit for Harry to be able to use the strategy – and this will sacrifice the growth on her benefit.

What can they do? This is one of those cases, like many you will see, where you really need to run the numbers to see what makes the most sense for the clients. For Harry and Juanita, Juanita can apply early at age 64. Her benefit will be reduced by 14.4% on account of taking her benefit early, so she will receive \$2,140 per month. However, filing for her own, worker's benefit has "opened the door" for Harry to begin to take a spousal benefit of \$1,250 per month. The couple will receive \$3,390 per month while Harry's benefit continues to grow.

When Harry turns age 70, he "switches" to his own, higher benefit of \$1,980 per month. At this time, Juanita is 68 years old. If it works for the couple, Juanita can now suspend her benefit for the next two years. She won't receive a check while her benefit is in suspension, but she can "grow" her own, reduced benefit with DRCs and, in this case, get it back up to its previous level of \$2,500.

For the right couple, this might be a good option as it still enables a healthy benefit during their 60's and allows the recoupment of the benefit that the spouse who filed early sacrificed to open the door for the spousal benefit.

3. What's left for the divorcee? The Claim Now, Claim More Later strategy also worked for divorcees. An unmarried divorcee could take his spousal benefit (from the former spouse) at FRA by filing a restricted application and then "switch" to his own benefit at age 70, which grew with DRCs.⁸ Clients divorced after a marriage that lasted at least 10 years and who are at least age 62 by December 31, 2015 may still be able to take advantage of this rule.
4. Have the strategies for a widow or widower also changed? The strategies for widows and widowers have not changed under the Act. A widower with a high worker benefit can take the survivor's benefit as early as age 60⁹ and delay taking his own benefit until age 70. Or, if the widower has a low worker benefit, he could take his worker benefit at age 62 and "switch" to the survivor's benefit at age 66. The goal is to obtain the highest benefit amount possible for the longest duration possible.

⁸ The non-claiming spouse had to be at least age 62 for the claiming spouse to be able to collect a spousal benefit off of his or her record.

⁹ Because he has filed early, his benefit may be impacted by the Earnings Rule.

With survivor's benefits, there's no deeming, so clients can take their survivor's benefit first and are not forced to take their own, worker benefit at the same time – or vice versa. There's also no offset rules. So, even though your client may choose to take his or her retirement benefit early, the amount of that reduction will not carry over to the widow's benefit.

Conclusion

There are two important dates to remember:

1. If you have clients who are at least 66 years old by April 30, 2016 and who have not yet applied for their Social Security benefits, have them assess whether it may be beneficial to File and Suspend. If they wish to do so, action must be taken by April 30, 2016.
2. Anybody who is 62 by the end of 2015 should step back and assess – before they apply for benefits – whether the Claim Now, Claim More Later strategy applies to them in order to maximize the couple's Social Security benefits.

Social Security is one of the few guaranteed sources of income in retirement. Therefore, it is important that advisors discuss with their clients the alternative methods and strategies to assure that clients receive the largest benefit possible through their retirement years.

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