Social Security Changes the Rules Again

'File and Suspend' Your Benefits Is Over

by Alexandra Armstrong, CFP, and Kelly Wright, CFP

This article is extremely time-sensitive. If you'll be age 66 on or before April 29, 2016, you must consider using a "file and suspend" Social Security claiming strategy or you'll most likely lose that option forever!

A Little Background

In the year 2000, Congress passed the Senior Citizens Freedom to Work Act that introduced the voluntary suspension of Social Security retirement benefits. This would allow those who had started Social Security benefits to suspend their payments and earn delayed retirement credits. This new process, however, opened the door for several additional Social Security claiming strategies.

In mid-2014 we wrote a series of three articles explaining Social Security retirement benefits. In the second article (see the May 2014 issue) we explained how married couples can use the file and suspend approach and used our couple Bob and Carol as an example. In the example, Bob could file and immediately suspend, allowing his wife Carol to collect up to 50 percent spousal benefits based on Bob's work record.

Here's an Excerpt From That Article:

"Assume you and your spouse are both the same age and are at an FRA [full retirement age] of age 66. Also, assume you both think you'll live relatively long lives and, therefore, both of you have decided to delay receiving higher delayed retirement credits. In this situation, the lower-wage earner has the option of getting 50 percent of the higher-wage earner's FRA benefit from age 66 to age 70, and both spouses can delay their own benefit until age 70 to accumulate their own delayed credits at 8 percent each year.

"For the lower-earning spouse to get 50 percent spousal benefits, the higher-earning spouse must 'file and suspend' his or her retirement benefit and the lower-earning spouse then files a 'restricted application for spousal benefits.' In filing this way, the lower-earning spouse will get 50 percent of the higher-earning spouse's FRA benefit while both spouses can accumulate delayed credits until age 70."

Note that if Bob and Carol were now 66 this would still be an option for them.

Here's the Example Given in the Article With a Minor Change in Ages:

Bob will be 66 on May 1, 2016, when he reaches FRA and is eligible for a $2,400 monthly Social Security benefit. If he waits until his maximum delayed credit age of 70, he'll receive $2,400 x 1.32, or $3,168 per month. His wife, Carol, will also reach FRA in May 2016. She's eligible for her own FRA benefit of $1,100 at that time or $1,452 if she waits until her maximum delayed credit age of 70.

Both Bob and Carol have decided that they'll likely live to be older than age 80 and that waiting to receive benefits makes sense. Bob and Carol could both wait until age 70, when Bob would get $3,168 per month and Carol would get $1,452 per month. In this case, from age 66 to age 70, both Bob and Carol would get no benefits.

Under the old rules, if Bob filed and suspended and Carol completed a restricted application for spousal benefits, the delayed benefits would be preserved, and in addition Carol would get $1,200 a month for four years. That's $1,200 x 48 months, or $57,600 more money with no risk! Also, should Bob pass away at age 70, Carol would receive Bob's benefit with the delayed credits, so she would get $3,168 per month.

But under the new rules, Bob and Carol no longer have this option because Bob will not be 66 by April 29, 2016. Under the new rules in Section 831 of the Bipartisan Budget Act of 2015, when Bob suspends his benefits, he'll suspend not only his own benefits, but also any benefits payable to Carol based on his earnings record. Carol's spousal benefits are 50 percent of Bob's benefits based on his earnings: The file and suspend strategy has been killed.

Timing Is Everything: April 29, 2016, Is the Deadline

The final version of the Bipartisan Budget Act of 2015 was passed Nov. 2, 2015. According to the law, the new restrictions on using the file and suspend strategy will apply to anyone who requests a suspension of benefits more than 180 days after the effective date of the new law. As a result, suspensions occurring on April 30, 2016, will be subject to the new more restrictive rules. If you qualify for using the file and suspend strategy, you must file and suspend by April 29, 2016. If a spouse has already filed and suspended to give his or her other spouse access to benefits, the new legislation will have no effect.

If Bob wasn't yet at full retirement age of 66, but would be 66 between now and April 29, 2016, he'd still be able to file and suspend on April 29, 2016, to provide Carol access to spousal benefits while delaying his own.

File and Suspend for Retroactive Lump Sums Gone, Too

Prior to this new law, an individual could file and suspend at age 66 and accrue delayed credits to age 70. But in filing and suspending individually, this individual could set a date and then go back to that date (age 66) to get a lump-sum retroactive benefit and forgo delayed credits. This was particularly useful for those who may have questions about their own longevity. In filing and suspending, the single potential Social Security recipient locked in a date back to which he or she could go to get a lump sum.

The Bipartisan Budget Act of 2015 created a new Social Security Act explaining the rules for how voluntary suspension will work in the future. The new rules say that suspended benefits can only be resumed the next month after the request is made, or at age 70. There's no longer an option to go back to a prior month to reinstate benefits.

These are major changes to strategies that have been used for the last 15 years for both couples and individuals to claim Social Security benefits.

Although revisions in the Social Security system aren't surprising, these important changes seem to have been made very quickly and with little coverage or explanation.

To reiterate, it's important you consult with a financial planner to discuss this situation and how it may apply to you. If you will be 66 by April 29, 2016, it may be wise for you to strongly consider filing and suspending Social Security retirement benefits. You'll most likely be the last group to be able to avail yourself and possibly your spouse of the benefits of doing so. ■

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Ms. Armstrong and Mr. Wright can't answer individual inquiries, but welcome suggestions for future article topics. This material has been provided for general informational purposes only and doesn't constitute either tax or legal advice. Investors should consult a tax or legal professional regarding their individual situation.

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