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Changes in Social Security benefits

Social Security benefits in 2016 will be affected by actions and decisions made in Congress and the U.S. Supreme Court in 2015. In *Obergefell v. Hodges* the Court held that same-sex couples have a constitutional right to marry in all states. That also means that, if such couples do marry, they have the right to be treated as spouses for tax and Social Security benefit purposes. Accordingly, spousal and survivorship benefits will become available to same-sex married couples.

As of this writing, the Social Security Web site acknowledges this development, but offers no further guidance on when these benefits will begin to be paid. Those who believe they are eligible are encouraged to file immediately, as there may be retroactive payments made once the administration has worked out the new rules.

The budget deal

First, some background. The "Senior Citizens Freedom to Work Act" was signed by President Clinton in 2000. The most important change was the elimination of the earnings test for receiving Social Security benefits upon reaching full retirement age. Retirees who reach age 66 this year may collect benefits in full, no matter how high their income may be. Of course, with a higher income the amount of benefits subject to income tax goes up as well.

Another option created with that legislation was the opportunity to suspend benefits after they started, to allow for earning delayed retirement credits. However, sharp-eyed financial planners soon developed additional legal claiming strategies that may have gone beyond what Congress intended.

In November 2015, as part of the budget agreement, Congress enacted significant reforms curtailing some of these strategies. No hearings were held, no legislation was proposed, the changes simply showed up in the budget. Anyone who already has implemented one of these strategies may continue it, but the ability for everyone else to use them is being phased out.

File and suspend

Married couples have been able to have their Social Security cake and eat it, too, in a sense. Husband files for benefits at age 66, and wife immediately claims her 50% spousal benefit. Husband then suspends his benefit, waiting until age 70 to begin collecting. By doing so, his benefit will be boosted by 8% for each year of delay, up to a maximum of 32%. This approach maximizes Social Security income for the couple in their 70s and beyond.

File and suspend has not been eliminated, but during the suspension period the spousal benefit will no longer be available (nor will a child's benefit). The new rule goes into effect May 1, 2016. Only those who are age 66 or older before that date may file and suspend their benefits under the old rules until that date.

Spousal benefit only

Couples with two incomes have paid Social Security taxes to earn two primary benefits and two spousal benefits. A person may claim only one benefit at a time, so something will be going to waste. However, the deferred retirement credit could be used to reduce the loss, especially if the husband and wife are close in age.

When Wife claimed her benefit at age 66, Husband (also age 66) claimed his 50% spousal benefit based upon her work record. That allowed his own benefit to grow until he reached age 70. At that point he would claim a benefit based upon his own work record, now increased by 32%.

This option has now been limited to those who reach age 62 by December 31, 2015. In other words, no one born in 1954 or later will have this choice. This phase-in lasts much longer, as those born in 1953 will not turn 66 until 2019.