

Social Security Update

December 8, 2015



On November 2, 2015, President Obama signed into law the Bipartisan Budget Act of 2015. The Social Security changes reflected in the law affects several previously used strategies, restricting methods that married couples had available to increase their Social Security benefits.

The intention of the previous law was to give people an incentive to work longer and delay their retirement benefits. This allowed them to receive full retirement benefits after they reached full retirement age. There are two commonly used strategies that emerged as a result of this: “claim now, claim more later” and “claim and suspend.”

The “claim now, claim more later” strategy allowed married couples to file for Social Security benefits as soon as the younger, presumably lower earning spouse reached age 62. The higher earning spouse then filed the claim at age 66 for spousal benefits. In the meantime, the higher earning spouse continued to work, which allowed his/her benefits to increase at the rate of 8% per year through age 70. He/she could then forgo the spousal benefits at age 70 and receive his/her own delayed retirement benefits at a much higher amount.

The new law signed by President Obama limits the “claim now, claim more later” strategy in two ways: 1) Those age 62 or older in 2015 can file a restricted application for a spousal benefit, only once they reach full retirement age. 2) Without the restricted application, when a spouse applies for benefits, they are

deemed to have filed for both their own and a spousal benefit. They will receive the greater of either their own benefits or a spousal benefit, and do not have the option to choose either at full retirement age. For those who do not reach age 62 in 2015, this change puts an end to the “claim now, claim more later” strategy.

The “claim and suspend” strategy allows the higher earning spouse to apply for his/her benefits at full retirement age and then suspend them. This allows the lower earning spouse to claim spousal benefits of up to 50% of the higher earning spouse’s benefits at full retirement age. Since both of them are at full retirement age when their claims are filed, they can continue to accrue their delayed retirement benefits through age 70.

Beginning six months (180 days) after the enactment of the law, the “claim and suspend” strategy will be prohibited. Since this tactic is for workers who have reached full retirement age, filing via this method is still available to those who either have already turned 66 or are going to turn 66 within the next six months. For example, a 68-year-old husband can “claim and suspend” his benefit now, before the 6 month window (April 30, 2016), allowing his 65-year-old- wife to claim the spousal benefits when she turns 66, and still file for her own benefits at age 70. The new rule does not affect couples that have already executed this strategy.

Choosing a retirement benefit strategy is a personal decision. It is based on an individual facts and circumstances and should only be implemented after discussion with your professional advisor.

For more information, contact your Anchin relationship partner or Richard Stieglitz, Tax Partner, at 212.840.3456.