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CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Eliminating the loophole for the Social Security “file and suspend” strategy is a result of the “Bipartisan Budget Agreement of 2015”



In the year 2000, Congress amended the Social Security Act of 1936 to allow elderly individuals to continue working by suspending their current social security benefit payments and avoiding the potential of taxation or repayment of those benefits. In effect, elderly individuals who may have mistakenly or unwisely applied for their benefits prematurely were now given the option to be able to change their previous decision.

This amendment, also called the “Senior Citizens Freedom to Work Act of 2000,” aimed at allowing those older workers to continue earning wages without losing any social security

benefits. This act, or amendment, opened up a very effective loophole which many financial planners discovered several years later.

In general, the loophole allows some couples to receive payments for spousal benefits, while still allowing the primary workers future social security benefit to grow while he or she remained in the work force.

[Here is a brief summary of how the strategy works.](#)

The primary worker would file for social security benefits upon reaching full retirement age, but would then immediately suspend his or her benefits. Currently age 66 is the full retirement age for individuals born between the years 1943-1954. The spouse, who must be at least age 62 or older, would then legally file for spousal benefits which he or she would be entitled to do because the primary worker had just applied for his or her benefits. The spousal benefit allows the spouse to receive half of the primary workers benefit payment which is based on the history of the workers earnings record. The option also allows the primary worker to continue working and receive delayed retirement credits which will increase his or her future monthly benefit payments.

The result of such a strategy would enable couples to gain up to four years of spousal benefits not available under the old system. In addition, the suspended benefits of the primary worker would continue to grow at around 8% per year. At the end of four years, the primary workers social



security benefit payment will be 32% higher than the original amount that he or she would have received. The primary worker would later start collecting the higher amount by removing the suspension, usually at age 70, when they can continue to work without consequence. The boost in the higher monthly amounts also positively impacts the amount of survivor benefits the spouse will get after the workers death as well. The spouse may continue to collect benefits until they reach full retirement age at which point they will receive the higher of the spousal benefit or their own full retirement benefit.

This strategy is most effective when two-earner couples have close or equivalent lifetime incomes and one spouse is healthy enough to put off collecting benefits until normal retirement age. These types of couples are usually higher income individuals who have both better access and the ability to afford the advice of financial advisors. Currently there are around 100,000 couples taking advantage of this strategy.

Closing the Loophole



In closing the loophole the new law will state that, “if the primary worker suspends his or her social security benefits, then the spouse or children also receiving benefits based on the workers earnings history can no longer receive social security payments.” *In other words, the decision to suspend the workers benefits also suspends all other benefits related to that worker.*

This change will take effect on May 1, 2016. Those who suspend their benefits before then will be grandfathered in. In order to do so, you must turn age 66 before May 1 2016. For those couples fortunate enough to consider this strategy, it’s imperative to take a good close look at their financial situation. This strategy is more effective for some couples than others, and many factors need to be considered, including: couples ages, relative earnings and life expectancy.

If you have any questions on this law change, please contact your relationship partner at Sobel & Co. LLC at 973-994-9494.