Social Security Retirement – Spouses and Dependents Benefits

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SOURCES of LAW

- Statute
  - Title II of the Social Security Act
  - Title XVI of the Social Security Act
    - 42 U.S.C. § 1381 et seq.
- Regulations
  - 20 C.F.R. § 401 et seq.
  - 20 C.F.R. § 416 et seq.
- Program Operations Manual System (POMS)
  - https://secure.ssa.gov/apps10/poms.nsf/home/readform

Taxes and Benefits

- Maximum Earnings Taxed
  - 2016 $118,500
- Maximum Taxes Paid (6.2%)
  - plus Medicare 1.45%, 0.9% higher for higher incomes $220k; $250k)
  - 2016 $7,702
- Maximum Retirement Benefit at Full Retirement Age (FRA)
  - 2016 $2,639 (decrease from 2015!)

Applying for Benefits

- In person
- Online
  - Via the Toll Free Telephone Number
    - 1-800-772-1213

Applying for Benefits Online

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What are Social Security Benefits

- Title II of the Social Security Act
  - Insurance Program for those workers who have paid enough in Social Security taxes to be covered
    - Retirement
    - Survivors/Dependents
    - Disability
Insured Status
- General rule is 40 covered quarters
  (and 20 out of last 40 for disability)
- Can be as little as 6 quarters!
  2016 $1,220

Primary Insurance Amount
- Primary Insurance Amount (PIA) is the basis of most Social Security Benefits.
- PIA is derived from a worker's lifetime earnings record.
- It is the retirement benefit one would receive if claimed at the full retirement age.

Delayed Retirement Credits
- Delayed Retirement Credits are earned for claiming benefits after full retirement age
- Workers earn 2/3 of 1% of the PIA for each month a benefit is not claimed
- That equals 8% per year or 32% if benefits are delayed until age 70

Disability
Same definition for Title II and Title XVI (SSI)
"Unable to engage in substantial gainful activity because of a medically determinable impairment which is expected to last twelve months or result in death"
- Physical
- Mental
- Combination

Retirement
- Early Retirement Benefits
  - Age 62
  - No Medicare until 65
- Full Retirement Age (FRA)
  - Traditionally 65
  - Moving towards 67

Full Retirement Age
- 1943 – 1954 66 years
- 1960 and later 67 years
Note: Medicare eligibility still begins at 65 years of age
Early Retirement
- Can take as early as 62
- Reduction in benefits
- Earnings Limitations
- What about Medicare?

How Much Will I Lose?
- Traditional
  - 20% of "full" benefit amount (PIA)
- More than 36 months early
  - 20% plus 5/12 of 1% per month in excess of 36 months
- Technical
  - 5/12 of 1% per month

Can I Retire and Still Work?
- Yes, with limitations
- What are the rules?
  - Up to $15,720 no effect
  - Over $15,720, benefits reduced $1 for every $2 earned
- No limits after Full Retirement Age
- $41,880 in calendar year of full retirement age

Should I wait?
- If a single individual lives to age 80, the cumulative lifetime benefits will be approximately the same whether benefits begin at 62, 63, 64, or any age through 70.
- If the client anticipates living well beyond average life expectancy, he/she should delay the start of benefits.

Married Couples
- Benefits more complex than for singles
- Various combinations of own retirement and spousal benefits are possible
- Substantial portion of Americans are still unaware of spousal benefits
- Common strategies are "file and suspend" and "filing a restricted application"—both take advantage of special rules

Spousal Benefits
- Paid to an eligible spouse of a worker
- Up to 50% of the worker's Primary Insurance Amount
- Can be claimed if worker is entitled to benefits:
  - The worker has begun benefits OR
  - The worker has filed and suspended benefits
- Spousal benefits are reduced for claiming early:
  - 20/36% for each month for the first 36 mos. prior to age 66 + 5/12% for each additional month
- Spousal benefits do not earn Delayed Retirement Credits
Before FRA – Deemed Application

Betty is age 62, John is age 66. John has filed for his benefit, which makes Betty eligible for a spousal benefit. She also has her own retirement benefit.

- Because Betty has not reached FRA, if Betty files for a benefit, she is deemed to be filing for all benefits.
- She will be paid her own retirement benefit first.
- If her spousal benefit would be higher, she will be paid the excess amount.
- Both benefits will be reduced because she is claiming before her full retirement age.
- If John were not entitled, Betty could apply only for her own benefit.

At or After FRA

- At FRA, application can be restricted to spousal or worker’s only—but only if the other spouse has filed (or filed and suspended).
- However, at FRA, spouse 1 can claim and suspend in order to entitle spouse 2 to receive a spousal benefit.
- It’s possible to switch from worker’s to spousal and vice versa.

Claiming Strategy

- Using the rules to the best advantage of a client.
- A good claiming strategy balances important outcomes:
  - The need for income at a particular time
  - Maximizing cumulative lifetime benefits
  - Protecting against longevity risk
- Clients benefit most from comparing strategies side-by-side.

Common Strategies

- File and Suspend
- Restricting the Scope of Application

- Not so common: Voluntary Suspension

File and Suspend

- One earner can file for benefits and immediately suspend payment.
- Two separate actions: file and then voluntarily suspend
- Makes the spouse eligible to collect a spousal benefit
- Generally, the higher earner files and suspends
- Allows own benefits to accrue delayed retirement credits
- Only possible at or after Full Retirement Age

Restricting an Application

- Also called “restricting the scope of the application”
- Means that one can collect only spousal benefits while own benefits accrue delayed retirement credits
- Often combined with a File and Suspend strategy
- Only possible at or after Full Retirement Age
Voluntarily Suspend

- Started benefits early, realizes it was a mistake
- At FRA, can Voluntarily Suspend benefits
- Will earn Delayed Retirement Credits for each month no benefit is claimed

- Example: PIA of $2,000
  Began at 62 = $1,500 (75% of $2,000)
  Suspend at 66
  Resume at 70 = $1,980 (48 months of DRCs)

Entitled to benefits in suspension at any time

What to think about

1: Which starting date for singles or dates for couples will maximize expected cumulative lifetime benefits?
2: Which starting date for singles or starting dates for couples will minimize longevity risk, that is, the risk of outliving their portfolio.

Congress changes the rules

- The end of file and suspend etc
- Essentially gone as of April 2016

Where do I get help

- Private companies that specialize in running the numbers
  - E.g. Social Security Solutions, Inc; Maximizemysocialsecurity.com
  - Many others

What About Medicare?

- Not until age 65 (or disabled)
- DO NOT FORGET MEDICARE THROUGH SPOUSE

Dependents & Survivors

Who is a Widow/Widower

Married or deemed married under laws of state where wage earner had a permanent home when he/she died; or would inherit under state law as a spouse; and:
Widows and Widowers

- Relationship lasted 9 months or more
- Natural parents of child together
- Less than 9 months but:
  - Unexpected accidental death
  - Unexpected Death in line of duty
- A few other esoteric categories

Widows and Widowers

- Disabled and over age 50
  (disability must occur within 7 years of spouse's death/last receipt of mother's/father's benefits)
  Medicare after 24 months
- Over 60
  No Medicare until 65

How much do Widow(er)s Get?

- If over 65 when apply, 100% of Primary Insured Amount (PIA)
- Less if 50 and disabled; or 60, generally 71.5%
- Less if decedent took early retirement (higher of amount decedent getting if alive or 82.5% of PIA)

What About Deceased Ex-Spouses?

- Additional requirement that marriage must have lasted 10 years

Children

- How much?
  Generally 50% of PIA if wage earner is alive and 75% if deceased
- Ends at age 18, or 19 if still in high school
- Childhood Disability Benefits (CDB) continue if disabled
- Disabled Adult Child (DAC)
  - Over Age 18
  - Disabled prior to age 22

Other Beneficiaries

- Mothers and Fathers benefits
- Adopted and Equitably adopted children
- Stepchildren
- Grandchildren
Where are these rules?
- Code of Federal Regulations
  - 20 C.F.R. §§ 404.330 - 84
- POMS
  - RS § 202.000 et seq. (spouses)
  - RS § 203.000 et seq. (child)
  - RS § 207.000 et seq. (widow(er)s)
  - RS § 208.000 et seq. (mothers/fathers)
  - RS § 209.000 et seq. (parents)

What is the Family Maximum
- Eek!
  - Very complicated formula. For the truly curious --

Family Maximum (cont’d)
- For the family of a worker who becomes age 62 or dies in 2012 before attaining age 62, the total amount of benefits payable will be computed so that it does not exceed:
  - (a) 150 percent of the first $960 of the worker’s PIA, plus
  - (b) 272 percent of the worker’s PIA over $960 through $1,415, plus
  - (c) 134 percent of the worker’s PIA over $1,415 through $1,845, plus
  - (d) 173 percent of the worker’s PIA over $1,845.

Family Maximum (cont’d)
- Or for a disabled worker
  - Benefits are payable to spouses and children of disabled workers, but such benefits are limited. The family maximum for a family of a disabled worker is 85 percent of the worker’s Average Indexed Monthly Earnings (AIME). However, it cannot be less than the worker’s PIA nor more than 150 percent of the PIA.

Overpayments
- What is an overpayment?

Waiver
- 20 C.F.R. § 404.506 et seq.
  - § 416.550 et seq.
- POMS
  - SI 02260.000 et seq.
  - GN 02210.000 et seq.

CAN BE FILED AT ANY TIME
### Waiver Requirements

- Without Fault **AND**
- Recovery would defeat the purpose of the Social Security Act
  (generally seen as a financial hardship test – Presumed if receive SSI or other cash Public Assistance)
  or
- Recovery would be against equity and good conscience

### Possible Fixes

- If overpayment is less than $1,000
- If client is low income and has full subsidy on Medicare Part D
- Negotiate
- Bankruptcy