



## TIAA-CREF Individual Advisory Services – Wealth Planning Services

### New Law Eliminates Social Security Claiming Strategies for Married Couples

#### What's new?

On November 2, 2015, President Barack Obama signed into law a new two-year bipartisan budget bill. The bill includes a section that phases out two popular Social Security claiming strategies for married couples.

#### Background

In an effort to cut Social Security costs, the law eliminates two Social Security claiming strategies for married couples: “file-and-suspend” and “restricted application.” These strategies were viewed as “unintended loopholes” that were a part of legislation enacted in 2000, which allowed married couples to claim up to an extra \$50,000 in lifetime Social Security benefits.

#### Who's affected?

Couples who have already taken advantage of file-and-suspend and restricted application will be grandfathered in and remain unaffected by the new law. However, those who are eligible for file-and-suspend will only have 180 days from the date the bill was signed into law—until approximately April 30, 2016—to take advantage of this filing strategy before it is eliminated for good. The restricted application option will no longer be available to anyone who has not turned age 62 by the end of 2015.

#### What is the effect?

For many couples entering retirement, file-and-suspend and restricted application are common Social Security claiming strategies used to secure spousal benefits while allowing one or both spouses to delay and accrue “delayed retirement credits” (DRCs) to increase one's own primary benefit by up to 8% a year until age 70.

The recently passed law eliminates both file-and-suspend and restricted application for all future beneficiaries who either do not take advantage of these strategies before they expire or fall outside of certain grandfathered classes.

#### What do you need to know?

To understand the implications of the new law, familiarize yourself with file-and-suspend and restricted application strategies to determine whether you should take advantage of them while they may still be available to you. Couples who no longer qualify for these strategies will need to update their retirement plans to account for these changes.

#### What is file-and-suspend?

This Social Security claiming strategy for married couples allows one spouse, typically the higher earner, to file for Social Security benefits upon attaining full retirement age (FRA), between the ages of 66 and 67 depending on date of birth, for purposes of allowing the other spouse who is at least 62 to collect spousal benefits. Such benefits can total up to 50% of the filing spouse's primary benefit at FRA. After filing, the original filing spouse immediately suspends his or her primary benefit, allowing it to accrue DRCs up until he or she reaches age 70.

This strategy will be eliminated 180 days from the date that the bill was signed into law, or roughly the end of April 2016. However, if you have already taken advantage of this strategy or are eligible and plan to do so within the 180-day expiration period, you will continue to receive the described benefits and be grandfathered in going forward.

#### How can I take advantage of file-and-suspend before it expires?

If you or your spouse has attained FRA or will attain FRA within the 180 day expiration period and have not already used file-and-suspend, you should consider taking advantage of this strategy before it expires. Should you file and suspend your benefits, then decide you no longer want to delay your primary benefit, you can cancel your request to suspend. At that time, you can receive a lump-sum payment equal to the amount of the benefit you did not receive during the suspension period. Alternatively, you can forgo the lump sum payment and, instead,

apply any DRCs you accrued during the suspension period so you receive the increased benefit amount.

### **What is a restricted application?**

This Social Security claiming strategy, also known as free spousal benefits or “claim now, claim more later,” allows a spouse who has attained FRA to file a restricted application for the purpose of receiving spousal benefits while delaying and increasing his or her primary benefit up until age 70. It is important to note that one spouse must have filed for his or her primary benefit in order for the other spouse to make a spousal benefit claim under this strategy.

### **Will I be able to file a restricted application in the future?**

According to the terms of the new law, if you turn 62 before the end of 2015, you may use this strategy in the future by filing a restricted application upon attaining FRA. In order for a spouse to be able to receive spousal benefits under a restricted application, the other spouse must file for his or her primary benefit. If you do not turn 62 until after 2015, the restricted application will no longer be available to you and any future filing will be characterized as “deemed filing,” requiring you to receive the higher of your primary benefit and spousal benefit.

### **Can file-and-suspend and the restricted application be used together?**

The two strategies can be combined in certain circumstances. For those couples planning on taking advantage of both strategies, the higher-earning spouse will have to file and suspend his or her claim within the 180-day expiration period. The lower-earning spouse must be at least 62 by the end of 2015 and will need to file a restricted application for spousal benefits upon attaining FRA, enabling both spouses to delay and increase their respective primary benefits up until age 70.

### **What should you do?**

If you are eligible for file-and-suspend now or will become eligible before it ends at the end of April 2016, you should consider taking advantage of this strategy before it expires. If you are no longer eligible for file-and-suspend or the restricted application and had anticipated using one or both of these strategies as part of your retirement planning, you should contact your TIAA-CREF advisor to update your

retirement plan and to discuss other options to meet your retirement income needs.

Choosing when and how to claim your Social Security benefits in retirement are complex decisions. It's important to understand how benefits are calculated and how your individual circumstances affect your retirement income needs. The Social Security Administration's website is filled with information and provides a good place to start. However, consult with your TIAA-CREF advisor and a reputable tax advisor to explore your options.

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