U.S.News & WORLD REPORT

HOW TO USE SOCIAL SECURITY AFTER THE FILE-AND-SUSPEND RULE ENDS

The government closed the lucrative loophole this year.

By: Jeff Brown - May 04, 2016

Work for 30 or 40 years and you get a nice pension, thanks to Social Security. And some married couples have been able to boost their payments with savvy maneuvers called "file and suspend" and the "restricted application."

Until now.

Starting May 1, rules adopted last year bar file and suspend for people born after April 30, 1950. And the restricted application is now available only for those who were 62 or older as of this past Jan. 1.

The tighter rules could cost millions of Americans hundreds of dollars a month, or more, and leave many scrambling to make up the loss.

Also called "voluntary suspension" and "claim and suspend," the file-and-suspend strategy was simple. Upon reaching full retirement age, typically 66, the beneficiary could file to claim Social Security, but then immediately suspend it, or ask to stop receiving the regular monthly income. Having filed, he made his spouse eligible for a "spousal benefit" that was half of the beneficiary's benefit.

By suspending, the beneficiary would allow his benefit to continue growing at about 8 percent a year until he started to take it. The spouse's own benefit – the one she'd earned by working, not as a spouse – would also grow because she postponed taking it as well. The spousal benefit, then, was gravy – money the couple pocketed without actually tapping their regular Social Security benefits.

If the couple in this scenario lived long enough, they could come out well ahead, because waiting would make their regular benefits much larger – by 32 percent, for example, for one who delayed starting from age 66 to 70. Over time, that would more than offset cost of delaying the start of those regular benefits.

But the Bipartisan Budget Act of 2015 eliminated this option for most future recipients. The idea was to close a loophole seen as mainly benefiting wealthier retirees who could afford to put off the start of regular benefits.

"I would emphasize that the people who did or were going to take advantage of these strategies were already better prepared for retirement than those who weren't using them," says Jason Dahl, director of financial planning at AFS 401(k) Retirement Services in Bethesda, Maryland. "That's because they had sufficient other assets to afford to wait. Most people couldn't afford to wait, so these strategies were irrelevant to them."

The restricted application was used by a spouse who had earned a benefit of her own. Instead of starting her benefit, for example, the spouse could apply to receive the benefit earned by the primary beneficiary. She'd get half of what he was entitled to at his full retirement age. That would allow her own benefit to grow until she switched to it later.

Unfortunately, the new rules ban this for those younger than 62 on Jan. 1 this year. Now once the beneficiary's spouse files to start payments, there will be no choice. She'll get whichever is larger – her benefit or the spousal benefit.

For those who had planned to use these maneuvers, the new rules may seem like a dirty trick. So what are their options now?

Many experts point out that the changes don't affect the most valuable Social Security strategy – increasing the size of your payment by delaying its start. If you were eligible for $2,000 a month at 66, you could get $2,640 by waiting to 70 to begin, since the payment increases by 8 percent a year. That's like earning 8 percent on a guaranteed holding like a savings account, which is just about impossible these days.

"The longer they delay them, the better," says Adam Koos, a certified financial planner in Columbus, Ohio.

Deciding when to start Social Security, he says, requires a comprehensive financial plan that also looks at things like how much the individual or couple can take from their retirement accounts. He recommends planning for a conservative withdrawal rate of 3 to 4 percent of the account value per year. With that assumption, you can see whether you can afford to postpone Social Security.

At a minimum, try to avoid starting Social Security until full retirement age, says James Speir, founder of Speir Financial Services in Southfield, Michigan. Starting at 62 rather than 67, for instance, would mean a 30 percent smaller payment – $1,400 instead of $2,000.

"Delaying benefits to (full retirement age) or delaying until age 70.... will maximize your Social Security income in retirement," he says. "It will also maximize the Social Security survivor benefit for your spouse."

Delay makes sense, he says, if four criteria apply:

- You plan to continue to work.
- You do not need the income right away.
- You are in good health.
- You come from a family that lives to a ripe old age.

Living longer gives you time for the higher payment to offset the money you passed up during the delay.

Of course, some people are still eligible to use the restricted application, allowing them to choose between their own or a spousal benefit. They can use the strategy in various ways, says Ash Ahluwahlia, president of National Social Security Partners, an advisory firm in Bridgewater, New Jersey.

In one option, the spouse with the bigger benefit would start Social Security, and the other spouse would use a restricted application to get the spousal benefit. That would allow the second spouse's own benefit to grow larger until she starts to take it.

Or the couple could do the opposite, using a restricted application to start a spousal benefit for the spouse with the larger benefit, allowing the regular benefit to grow even bigger.

To choose among these options, the couple must know the actual size of each benefit and weigh factors like immediate cash needs and life expectancy. The Social Security Administration provides several online calculators for exploring your situation.

Retirees who can no longer use file-and-suspend or the restricted application should look at options like working longer, Ahluwahlia says. Not only would that allow you to delay Social Security for a larger benefit, it would allow you to add more to your retirement investments, and it would reduce the number of retirement years to fund.

Of course, you can also rejigger your retirement portfolio in hopes of increasing your income, but Ahluwahlia cautions against taking too much risk in or near retirement, when there's not much time to recover from an investment setback.

"The exception to this, however, may be the effective use of annuities," Ahluwahlia says. "Annuities provide guaranteed lifetime, or joint lifetime income, and there are now many low-cost annuity options available."

James Speir, Founder of Speir Financial Services has been providing his clients with financial services and meeting their insurance needs for over a decade.

For more information, please call 888-458-0667 or visit www.speirfinancial.com.