

## Divorce and New Social Security Rules: What to Know

Social Security rules have effectively created two different sets of rules that ex-spouses of primary earners can use, depending upon their date of birth. The Bipartisan Budget Act of 2015 has led to this division in claiming strategies that are now available to divorced Social Security filers.

It's important to understand the differences between the two sets of plans and know which rules will apply. Here's what you need to know about divorce and Social Security.

### Basic Rules for Divorce Under Social Security

The standard divorce rules for Social Security say that if an individual was married for at least 10 years to their spouse and then divorced, he or she is eligible to collect spousal benefits on the earnings of the ex spouse as long as the recipient is currently single. The divorced spouse can collect on the ex-spouse under these circumstances even if the spouse whose earnings are being claimed upon has remarried.

Furthermore, if the ex-spouses have been divorced for at least two years, then one ex-spouse is entitled to claim

benefits based upon the other's earnings, even if the other spouse has yet to file for benefits. But both ex-spouses must be at least 62 years old in order for this to apply.<sup>3</sup>

In some instances, one ex-spouse can claim a spousal benefit equal to one-half of the other spouse's full retirement benefit while suspending their own benefit and allowing it to grow by 8% per year to the maximum possible amount at age 70.

Under the New Rules

Social Security regulations say that only ex-spouses who were born on or before Jan. 1, 1954, are allowed to file a restricted claim for spousal benefits at age 66 and suspend their own until age 70. Those who were born after this date do not have this option.

Married couples also do not have this option, as only one spouse can claim spousal benefits. And both married and divorced spouses who were born on or after Jan. 2, 1954, will now automatically be deemed to file for all available benefits (both spousal as well as their own) at the same time when the time comes for them to claim their Social Security benefit. They will automatically be paid the highest benefit available.

