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The Savvy Investor
Social Security Rules
Divorce and Remarriage
2016

Background

The rules governing Social Security benefits for divorced spouses are complicated, especially after rule changes in 2016. Here are the basics.

As long as you were married at least 10 years, are age 62 or older, are divorced and currently single, you can collect benefits on your ex's earnings record just as if you were still married (even if your ex has remarried).

But other basic Social Security claiming rules apply. If you are also entitled to benefits on your own work record and you claim benefits before your full retirement age, which is currently 66 for anyone born from 1943 to 1954, Social Security will only pay you a spousal benefit if it is larger than your own.

Spousal & Restricted Benefits

A spousal benefit is worth 50% of the worker's benefit if the spouse claims at 66 or later; less if claimed earlier. In most cases when a retirement benefit is larger than a spousal benefit, the spousal benefit is wasted. But if you wait until 66 to claim benefits, you can exercise a creative claiming strategy if born before January 2, 1954.

At 66, you can file a restricted application for spousal benefits. That will allow you to collect only your spousal benefit for up to four years, while your own retirement benefit continues to

grow by 8% per year up until age 70. At 70, delayed retirement credits would be worth 132% of your full retirement age amount.

This strategy of claiming only spousal benefits is only available to married spouses and eligible divorced spouses who were born on or before January 1, 1954. If born after January 1, 1954, you can still defer receiving your benefits to age 70 and increasing them 8% per year.

Divorced & Remarried Spouses

Only one spouse in a marriage can file a restricted claim for spousal benefits if they were born on or before Jan. 1, 1954.

Divorced spouses can each claim spousal benefits on their ex's earnings record, assuming they are old enough to be grandfathered under the old rules. **Ex-spouses who have been divorced at least two years are "independently entitled" to Social Security benefits, meaning they can claim benefits on their former spouse's earnings record even if the former spouse has not yet claimed Social Security. Both ex-spouses must be at least 62 years old to do so.**

Generally, you lose the ability to claim benefits on your ex-spouse's earning record if you remarry, unless that subsequent marriage ends through death or divorce. However, if you wait until age 60 or later to remarry, you can still collect survivor benefits if your ex-spouse dies.

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