Retirement Income
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Congress Shuts $50,000 Social Security 'Loophole'

By Kerry Pechter *Wed, Oct 28, 2015*

The problem with file-and-suspend was that it threatened to bleed an estimated $10 billion a year from a system already suffering from financing issues.

Under a section called "Closure of Unintended Loopholes," the just-published **Bipartisan Budget Act of 2015** has ended the so-called "file-and-suspend" Social Security claiming strategy that, perhaps more in theory than in practice, enabled some couples to receive up to $50,000 in extra benefits between ages 66 and 70.

No one knows how many people took advantage of the strategy. But the so-called loophole gave countless financial advisors an excuse to call older clients and prospects with the glad news of a potential windfall. "File and suspend" also catalyzed the publication of several popular books, notably "Get What's Yours," co-authored by Boston University economist Larry Kotlikoff.

Here's how file-and-suspend worked: The spouse with the higher expected benefit—typically the husband—filed for benefits at his full retirement age (66), then filed a notice to suspend those payments. The wife then filed for spousal benefits—half the husband's benefit.

That brought about $1,000 in found-money into the household per month. Four years later, when the husband reached age 70—the age at which benefits hit their high-water mark—the husband "unsuspended" and started receiving monthly checks. His wife could choose to go on receiving spousal benefits or (assuming she had reached age 66 before claiming the spousal benefit and had her own work record) switch to her own earned benefits, if higher.

Section 831 of the new budget nixes this switching strategy for couples turning age 62 after 2015 by saying:

> "If an individual is eligible for a wife's or husband's insurance benefit in any month for which the individual is entitled to an old-age insurance benefit, such individual shall be deemed to have filed an application for wife's or husband's insurance benefits for such month.
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According to Steve Sass, a researcher at the Center for Retirement Research at Boston College, “The ‘deeming’ language means the beneficiary is given the higher of the two benefits and is not allowed to choose to collect one benefit (i.e., the spousal benefit) and allow the other (i.e., the worker benefit) to grow and be claimed later at a higher monthly rate. This rule had already applied in the period before people reached Full Retirement Age. This legislation will make it the rule after.”

The problem with file-and-suspend was that it threatened to bleed billions of dollars from a system already suffering from financing issues. According to a 2009 research paper by the Center for Retirement Research, the “’Claim Now, Claim More Later’ strategy, [in which] a married individual claims a spousal benefit while delaying claiming his own retired worker benefit in order to build up delayed retirement credits… could potentially cost Social Security $10 billion a year.”

Eugene Steuerle, a former Social Security economist now at the Urban Institute, told *RIJ* that the new budget legislation still does not end Social Security’s long-standing preferential treatment of non-working wives, whose spousal benefits can be higher than the benefits paid to women who have worked their whole lives.