

Social security benefits and divorce

by Patricia Barrett, CFP, CDFA

Decisions about filing for Social Security benefits will affect you financially for the rest of your life. And if you have gotten divorced in the past, you may qualify to receive Social Security on the work record of your ex-spouse. However, you must meet several rules for qualifying to receive these benefits. You also must consider at what age to start taking those benefits.

Here are the basic rules for qualifying for Social Security benefits on the work record of your ex-spouse:

- 1) You must be at least age 62 and was married 10 years or more;
- 2) Your divorce must have been final at least two years before you file;
- 3) Your ex-spouse must have reached the age at which he or she is eligible to receive a retirement or disability benefit;
- 4) Not entitled to a higher Social Security benefit under your own work record;
and
- 5) You must be unmarried.

If you meet all the above criteria, and you have reached your full retirement age -- *that age is now 66 for people born from 1943 to 1954 or 67 for birthdates in 1960 and later* -- then you qualify for 50% of the amount your spouse is due at his or her full retirement age. If you are 62, then you qualify to receive 35% of his or her benefits.

Any benefit you get does not affect the amount your former spouse, or his or her current spouse, may receive. And the remarriage of the ex-spouse has no bearing on your ability to file under his or her earnings record. It is only your own remarriage that revokes your eligibility to file under his or her work record. If you remarry and are married for 10 years or more and divorce, you can take either benefit, whichever is greater. By the way, Social Security's regulations and policies are gender-neutral and apply equally for men and women.

At what age should I apply?

If you contributed to your own Social Security benefits, it may well be greater than 50% of your ex-spouse's benefits. Although it may be to your advantage to file under his or her earnings record (a spousal benefit) and allow your own benefits to accrue delayed-retirement credits. For instance, if you have a \$1,400 per month benefit coming at age 66, but would be entitled to only \$800 by filing under your exes' earnings record, you could file for the lower spousal benefit and switch to your own, much greater benefit, at age 70.

So, assuming you were earning less than \$15,120 for the year of receipt (earnings limitation for taking benefit before age 65), you could receive \$600 per month for 8 years, then switch to your own enhanced benefit of \$1,850 per month. This is \$57,600 in income over those 8 years, while waiting for your own benefit to increase 8% per year.

Note that for this strategy to work, the ex-spouse must be old enough to file for Social Security himself. He or she does not have to apply for those benefits, but must be eligible.

What if you have no Social Security earnings record?

You are still eligible for the Spousal Benefit, but obviously would not have the option of later switching to your own benefit. You can still decide at what age to apply for your Social Security benefits -- at age 62, 66 or later, in order to secure the delayed retirement credit.

Assuming you have other income sources, the best choice would be to allow your benefits to continue to earn that 8% per year deferred retirement credit increase as long as possible.

What are your options if your ex-spouse dies?

If your ex-spouse dies, you can access a "widow's benefit" as early as age 60. Once again, you must have been married to your ex-spouse for 10 years or more. However, if you remarry before age 60, you will not be eligible to take the widow's benefit. But, if you are over age 60 and remarry, you are still eligible to receive a widow's benefit.

Since each case is unique, it's best if you consult with a Certified Divorce Financial Analyst. These trained professionals are knowledgeable about maximizing your Social Security benefits following divorce from within the context of your total financial situation. Knowledge is power, even when it comes to Social Security. For more specific information on Social Security, visit www.socialsecurity.gov.

Each divorce situation is unique, with its own set of circumstances and financial issues. The information in this column is meant to provide a guideline. For specific legal and financial advice on divorce, please consult a board certified and experienced family law attorney and a certified divorce financial analyst.