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## The End for File & Suspend

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### How File & Suspend Works

Prior to the passage of the Bipartisan Budget Act of 2015, individuals applying for Social Security benefits frequently used the File & Suspend Strategy, sometimes called “Voluntary Suspension or “Claim and Suspend,” as an option for married couples who wanted to claim spousal benefits while also increasing delayed retirement benefits.<sup>1</sup> The process was straightforward; once a person applies for benefits, the Social Security Administration makes a determination as to whether that person is entitled to benefits.<sup>2</sup> The Social Security Administration typically takes 6-12 months to determine whether a person is entitled to benefits. Benefits can be immediately suspended after filing but before a determination of eligibility has been made,<sup>3</sup> or can be suspended after a person begins receiving benefit payments. Once the benefits are suspended, they continue to accumulate until the beneficiary reaches age 70, at which point benefits automatically resume, or until the beneficiary requests that benefits be reinstated.<sup>4</sup>

The File & Suspend Strategy is valuable for married couples who want to defer collecting benefits for the primary wage earner spouse while still collecting spousal benefits. Assuming that his spouse is already 62, a person could file and suspend his own benefits, let his spouse begin receiving spousal benefit payments, and continue to accrue increased benefit payments until they reach full retirement age.<sup>5</sup> Spousal benefits are equal to half of the amount of the primary beneficiary's

Tax time is an ideal time to review your estate plan while your information is gathered.

Does your plan still work or is it time for an update?

<sup>1</sup> <http://www.socialsecuritychoices.com/info/fileandsuspend.php>

<sup>2</sup> <https://socialsecurity.gov/planners/retire/suspend.html>

<sup>3</sup> Id.

<sup>4</sup> <https://socialsecurity.gov/planners/retire/suspend.html>

<sup>5</sup> <http://www.cnn.com/2016/01/12/news-your-last-chance-to-use-these-social-security-strategies.html>

amount, but using the Restricted Application Strategy, a spouse can switch back to her own, potentially higher, benefits upon reaching full retirement age.<sup>6</sup>

To illustrate, consider John and Jane; John's benefit is \$1,000 upon retirement, and Jane's benefit is \$800. John files for benefits, and Jane uses the Restricted Application Strategy to claim half of John's benefits, with her own benefits continuing to grow 8% annually. Additionally, John elects to suspend his benefits, and his benefits also continue to grow at 8%, while Jane continues to collect \$500 monthly based on John's benefits. Upon full retirement age, John and Jane will begin to receive her full benefit amount and will not be penalized for taking advantage of the File & Suspend Strategy. As an added bonus, if John decides that he needs to begin receiving benefits again before reaching full retirement age, he can resume payments with retroactive benefits for the time his benefits were suspended.

### How File & Suspend is Changing

The Bipartisan Budget Act of 2015 added the following text to the social security provision that allowed for individuals to take advantage of the File & Suspend Strategy:

(z) VOLUNTARY SUSPENSION.—(1)(A) Except as otherwise provided in this subsection, any individual who has attained retirement age... and is entitled to old-age insurance benefits may request that payment of such benefits be suspended...

(3) In the case of an individual who requests that such benefits be suspended under this subsection, for any month during the period in which the suspension is in effect—

(A) no retroactive benefits (as defined in subsection (j)(4)(B)(iii)) shall be payable to such individual;

(B) no monthly benefit shall be payable to any other individual on the basis of such individual's wages and self-employment income; and

(C) no monthly benefit shall be payable to such individual on the basis of another individual's wages and self-employment income.<sup>7</sup>

Under these changes, an individual can still choose file and suspend his benefits in situations where he realizes that he filed for Social Security benefits too early, and wants to accrue increased benefit payments for the remaining years before they reach full retirement age. However, his spouse will no longer receive spousal benefits payments until he reinstates his personal benefits or reaches full retirement age.

Considering this in the context of the previous hypothetical illustrates the broad extent of these changes. When John files for benefits, and Jane can no longer use the Restricted Application Strategy to grow her own benefits. She must choose between filing now and receiving the higher benefit (half of John's benefits or all of hers),

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<sup>6</sup> Id.

<sup>7</sup> BIPARTISAN BUDGET ACT OF 2015, PL 114-74, November 2, 2015, 129 Stat 584.

or waiting in order to increase her own benefit payments. If John elects to suspend his benefits, his benefits will continue to grow at 8%, but Jane will no longer collect a spousal benefit based on John's benefits. Fortunately for John, if he decides that he needs to begin receiving benefits again before reaching full retirement age, he will still be able to receive retroactive benefits for the time his benefits were suspended.

#### How File and Suspend Affects You

If you are already receiving benefits and are currently taking advantage of the File and Suspend Strategy, you do not need to do anything. Your benefits will continue to accrue, spousal benefits will continue to be paid, and you still maintain the ability to reinstate benefits with retroactive payments intact.

If you are already receiving benefits and are *not* currently taking advantage of the File and Suspend Strategy, you have a limited amount of time to act if you wish to take advantage of this strategy. The Bipartisan Budget Act of 2015 only takes effect in regards to benefits suspensions that occur 180 days after the enactment,<sup>8</sup> making the changes effective on April 30<sup>th</sup>, 2016.<sup>9</sup> The Restricted Application Strategy will still be available to persons who have already filed and have a spouse who turned 62 before the end of 2015.

If you have not filed for benefits but are eligible, the same deadline of April 30<sup>th</sup> applies in order to use the File & Suspend Strategy. Additionally, if your spouse has reached the age of 62, you can still file and suspend benefits before the April 30<sup>th</sup> deadline in order to use the File & Suspend and Restricted Application Strategies in conjunction. If you have any questions or are considering using either of these strategies, contact a financial planning institution as soon as possible to determine the best Social Security benefit strategy before the April 30<sup>th</sup> deadline.

If you had not reached the age of 62 by the end of 2015, you will not be able to use these strategies. If you were planning on using these strategies to increase your retirement benefits, contact a financial planning institution to explore alternative ways to supplement your retirement income.

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<sup>8</sup> BIPARTISAN BUDGET ACT OF 2015, PL 114-74, November 2, 2015, 129 Stat 584, note 3.

<sup>9</sup> <https://socialsecurity.gov/planners/retire/suspend.html>