LEGAL EASE

THE MERCURY PottsMerc.com

Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

November 15, 2015

Re-thinking your Social Security strategy may be in order

Congress passed a budget and President Obama is expected to sign it into law. Among the provisions that affect older Americans is two of the more popular Social Security claiming tactics, namely the "file and suspend," and the restricted application strategy. Congress saw these tactics as loopholes that they decided to close to make the Social Security fund more stable longer. The key to these changes is to revisit your retirement planning strategies to be sure what you had planned to do is still possible and advantageous. (http://www.marketwatch.com/story/key-social-security-strategies-hit-by-budget-deal-2015-10-30).

Deemed filing or restricted application is when a person files for spousal only benefits at his or her full retirement age (FRA) allowing their personal benefits to continue to grow, resulting in a larger monthly benefit for every year past FRA that the person delays taking benefits. The new law would only permit deemed filing to apply beyond full retirement age rather than only applying before FRA as it does now. HOWEVER, the new law does not apply to those folks who have attained age 62 by the end of 2015; for them, the restricted application benefit is still available. This also does not affect survivor benefits, although the rules just became more complex.

The second change and one that is more likely to affect retirement benefits is the loss of the "file and suspend" strategy. The typical tactic is for Spouse A to file for retirement benefits at FRA and immediately suspend; Spouse B then files for spousal benefits while Spouse A's retirement continues to grow. It is not eliminated, however, for those persons who file for suspension within 180 days of the enactment of the bill.

Although the spousal portion of the file and suspend strategy has been eliminated, it is still possible for each worker to voluntarily suspend taking benefits at FRA and use it for its original intent, that is, for someone to go back to work or continue work and accumulate 8 percent annual delayed credits to age 70. For example, a person born in 1960 or later and whose monthly benefit at FRA was $1,000, suspending to age 70 will result in a monthly benefit of $1,240. By contrast, if that same person starting receiving benefits at age 62 years, the monthly benefit will be $700 each month. Over a lifetime, the difference in strategies could be a large deficit or benefit, depending upon the choices made.

Many people have not planned for the maximum Social Security advantage. Of those who did plan but now have their original plans seemingly thwarted, there is still planning to consider. For instance, when one of two spouses has a high primary insurance amount (PIA), delaying until age 70 can be very advantageous, since the result is a higher benefit as long as one of the spouses is still alive. For the low PIA spouse, delaying is only sometimes advantageous. For a single person, delaying is still often advantageous especially for someone who may have a very long retirement period.

This is an opportunity to consult with a financial advisor who knows your finances and can give you straightforward advice as to what to do about Social Security, especially in light of the new law.