

Social Security Amendments of 2015
Descriptions of Legislative Provisions

Title I – [Old Age and Survivors Insurance]

Voluntary Suspension

Current Law: Currently, a worker who chooses to voluntarily suspend benefits for any period between full retirement age (FRA) and age 70 may earn delayed retirement credits (DRCs) under section 202(w) of the *Social Security Act* (Act). Benefits to auxiliaries continue unaffected during any such voluntary suspension period.

Proposal: The proposal would prevent an auxiliary from receiving benefits if the worker has voluntarily suspended benefits to earn DRCs. The proposal would specify that if a worker elects to suspend his or her benefits, no monthly benefit shall be payable to any other person based on such individual's wages or self-employment income except in the case of an individual entitled as a divorced spouse under section 202(b)(4) or (c)(4) of the Act. (Auxiliaries would continue to receive benefits if the worker is or becomes subject to a mandatory suspension or non-payment penalty.)

Rationale: The *Senior Citizens Freedom to Work Act of 2000* encouraged older Americans to work by eliminating the earnings test for workers over FRA. Additionally, this law permitted workers to voluntarily suspend their benefits, thus allowing such months to be considered months for which the worker could earn DRCs. However, in recent years, couples have engaged in strategies designed to maximize monetary benefits in a manner not envisioned under the Act or the *Senior Citizens Freedom to Work Act of 2000*.

Effective Date: This proposal would be effective upon enactment.

Change the Deemed Filing Provision

Current Law: Section 202(r) of the Act provides that if an individual younger than FRA files for a reduced retirement benefit on his or her own earnings, then he or she is deemed to have also filed for a reduced spouse benefit, if he or she is eligible for one at the time. The converse is also true; that is, an application for reduced spouse benefits is deemed to be an application for reduced retirement benefits. This is the “deemed filing provision.”

An individual who files for spouse benefits at FRA or later, including an independently-entitled divorced spouse, is not deemed to have also filed an application for retirement. That is, he or she can restrict the scope of the application to draw unreduced spouse benefits, and accrue DRCs until filing for retirement benefits as late as age 70.

Proposal: Apply deemed filing provision regardless of a spouse's age.

Rationale: This proposal would preclude an individual from restricting the scope of the application to spouse benefits at FRA in order to maximize the amount of benefits over time, including the effect of accrued DRCs. Under current law, one wage earner at FRA

can apply for retirement benefits and suspend those benefits in order to earn DRCs. With this scenario, the other spouse can draw full spouse benefits from the other's record by restricting the scope of the application to spouse benefits only. Media coverage has promoted this "file and suspend" strategy as a means for individuals to boost their overall benefit amounts for each year of suspension, to age 70. The file and suspend strategy works best for couples who can afford to delay benefits to accrue DRCs.

This proposal allows for program savings by prohibiting the collection of full spouse benefits while accumulating DRCs. The spouse will only be entitled to the excess of the spouse benefit and his or her own primary insurance amount (PIA). This proposal may create administrative costs in the short term by increasing the number of applications, but would balance over time, since the individual would have eventually filed another application on his or her own record.

In addition, this proposal would simplify program policy by applying the same rule to individuals no matter what their ages. By extending deemed filing past FRA, it will close the common loophole of filing and suspending.

Effective Date: The proposal would be effective for applications filed on or after the first day of the first month after enactment.