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Same-Sex Couples and Social Security Benefits

Ultimately I think what people care about, particularly on an issue like Social Security, is not really what's right and what's left but what's right and what's wrong.

John Podesta

Main Topics

- What is the current policy of the Social Security Administration regarding same-sex couples?
- Could the prospect of Social Security benefits influence our decision to legally marry?
- When should someone begin taking Social Security?
- What are some of the best strategies to maximize Social Security benefits?

Key Idea

Unless absolutely essential, delay taking Social Security as long as possible. Living a long time and running out of money is the big concern. The longer you live, the bigger the difference in the amount you collect and the greater your long-term financial security.

Significant Social Security Benefits for Married Couples

This chapter is one of the two most important and potentially life-changing chapters in this book. The other is Chapter 2 on IRAs and retirement plans. Why? Because they address some of the most compelling reasons to make good financial decisions for you and your partner's long-term financial security, including the decision of whether or not to get married. The first premise to be explained in detail is that there are significant Social Security benefits for married couples, that are *not available* for two non-married partners. Up until 2013, the Social Security Administration did not recognize legal, state sanctioned same-sex marriages for the purpose of allowing Social Security benefits. Under the old law you were treated as two unmarried people—to your financial detriment.

That changed in 2013. The Social Security Administration now recognizes same-sex marriages *in states that also recognize same-sex marriages*. This has created a financial planning bonanza for legally married same-sex couples because they are potentially able to collect Social Security spousal benefits and spousal survivor benefits (to be explained later). For couples that haven't yet taken the nuptial plunge, and who live in states that recognize same-sex marriage, it could easily tip the scale toward getting married in order to enjoy enormous additional Social Security benefits.

The advice we offer here applies immediately to couples who married in, and live in, states that recognize same-sex marriage. Marriage should also be strongly considered by residents of states that do not currently recognize same-sex marriage. We believe that either Congress, the Social Security Administration, or the courts will eventually have to provide legally married residents of states that don't currently recognize same-sex marriage with equal treatment under the law—meaning they'll be given the same rights to collect Social Security as residents of states that do recognize same-sex marriage. If we are correct in our forecast, all legally married same-sex couples, regardless of where they are domiciled when they apply for Social Security benefits or where they live, will be treated as a legally married couple. It will be a huge financial benefit for same-sex married couples.

The Big Picture

> *Imagine two identical couples – they are the same ages, they have the same assets, and the same earnings records. One couple gets married and takes advantage of the strategies*

> *recommended in this chapter. The other couple remains unmarried and both partners start collecting Social Security at age 62. Twenty years pass, and their lifestyles and spending are identical. Eventually, the partner with the stronger earnings record of both couples dies. The financial situations of the two surviving partners is now drastically different: the survivor of the couple who got married and followed our advice has $400,000, the survivor of the couple that didn't get married, and chose to take Social Security early, is nearly broke.*

The details follow later in this chapter. This example isolates the difference due to Social Security benefits. Granted, it is not likely to mirror anyone's situation exactly, but it does highlight the point that there could be enormous financial benefits for same-sex couples who get married and follow the advice in this chapter.

The Social Security spousal benefit alone may provide a compelling reason for same-sex couples to get married in a state that recognizes same-sex marriage. If you agree with us and anticipate that the law will change, and that Social Security spousal benefits will most likely be paid to all legally married same-sex couples regardless of their state of residence, then there is even stronger motivation to get married. For high-earning couples, or even more compellingly, when there is one higher-earning partner/spouse and one lower-earning partner/spouse, the Social Security spousal benefit could potentially be measured in the hundreds of thousands of dollars (described below). A significant factor to consider is that, if the higher-earning spouse is the first to die, Social Security increases the monthly income for the lower-earning spouse following the death of the higher earning spouse. For couples of more modest means, the difference may not be as dramatic in terms of absolute numbers; nevertheless, getting married in a state that recognizes same-sex marriage *and* taking the appropriate steps can provide a solid base for both of you in retirement during your joint lifetimes, and after the death of your spouse.

Unfortunately, sophisticated Social Security strategies are unfamiliar territory for same-sex couples, advisors to same-sex couples and even most financial advisors to straight couples.

Granted, few straight couples know enough about the nuances of Social Security strategies to get the most from their benefits. But I do. In this chapter, I combine that knowledge with what I know about same-sex couple laws after the recent DOMA ruling and its aftermath.

It is, however, crucial to understand that there are multiple strategies for maximizing Social Security benefits, and that the vast majority of Social Security recipients—whatever their sexual orientation or marriage status—fail to apply any of these perfectly legal strategies to maximize their benefits. My objective here is to point out the advantages of spousal benefits for legally married same-sex couples, and to recommend strategies that will help you to get the most out of your Social Security benefits.

Let me also add that decisions about whether or not it makes financial sense for you to get married, when you should collect Social Security benefits, and, to the extent that you have a choice, which Social Security benefits you should collect, should not be considered in isolation. Because of the enormous financial implications that I'm about to show you, you should keep in mind that one decision will often have a consequence in a different area. For instance, did you know that there is an advantageous synergy that comes from combining the timing of Social Security benefits and making multiple Roth IRA conversions? Assuming you fit the profile (including being married), a combination of one of the Social Security claiming strategies described later in this chapter and a series of Roth conversions starting after retirement, but possibly ending at age 70, warrants serious consideration. Above all, your personal situation, the personal situation of your partner/spouse, and your collective financial/retirement plans should all factor into your decision about how and when to claim Social Security benefits.

My objective is to point out the advantages and disadvantages of some scenarios and hopefully motivate you to get more information for your particular circumstances—either on your own or with the help of an expert financial advisor.

Chapter Overview on Social Security

This chapter includes:

- a summary of the critical features of Social Security benefits applicable to everyone who has either
    - paid into Social Security through payroll taxes and has worked long enough to have earned a benefit or
    - who is married to such a worker;
- the current policy of the Social Security Administration regarding same-sex couples; and
- strategies to maximize Social Security benefits.

This chapter also addresses:

- how the options available to married couples that affect Social Security benefits might have an impressive impact on your decision to legally marry your partner;
- how and why you both need to think about timing your application for Social Security benefits; and
- whether it might be advantageous to use the "*Apply and Suspend"* technique we introduce in this chapter.

My Big Assumption… but I Could be Wrong

Here is what the IRS said:

> The U.S. Department of the Treasury and the Internal Revenue Service (IRS) today ruled that same-sex couples, legally married in jurisdictions that recognize their marriages, will be treated as married for federal tax purposes. *The ruling applies regardless of whether the couple lives in a jurisdiction that recognizes same-sex marriage or a jurisdiction that*

does not recognize same-sex marriage [emphasis mine]. August 29, 2013.

Consider the meaning of these phrases: “legally married”, “married for federal tax purposes” and “regardless of where the couple lives”. So even if you live in a state that does not recognize same-sex marriage, the IRS will recognize your marriage if it was performed in a state that recognizes same-sex marriage. What may be somewhat confusing, though, is that (as of this writing) you are only considered “married” with respects to any federal tax returns that you are filing. I might be wrong, but I feel confident that the Social Security Administration or the courts or Congress will change their policies as they relate to Social Security to mirror that of the IRS. On the Social Security Administration’s website, they indicate that they are “working with the Department of Justice to develop and implement policy and processing instructions on this issue.”[11] *This issue* refers to being legally married, but living in a state that prohibits or does not recognize same-sex marriages.

The section below explains the *current policy* (as of March 2014) of the Social Security Administration regarding same-sex couples. As will be seen, there will be enormous advantages for same-sex couples living in states that do not currently recognize same-sex marriages, to get married in a state that does recognize same-sex marriage *and* to take appropriate action well before the Social Security Administration’s policy mirrors the IRS policy. Even the Social Security Administration is saying “we encourage you to apply right away, even if you aren’t sure you are eligible. Applying now will preserve your filing date, which we use to determine the start of potential benefits.” For legally married residents of the states that currently recognize same-sex marriages, including New York, California, and Massachusetts just to mention a few, the strategies described below are compelling and you don’t have to wait for any changes in the law or current policy to realize their advantages. That said, no matter where you live or your legal status as a couple, *don’t apply for Social Security without thinking through your best strategy*;

[11] https://faq.ssa.gov/link/portal/34011/34019/Article/3547/Do-I-qualify-for-benefits-if-I-live-in-a-place-that-prohibits-or-does-not-recognize-same-sex-marriages-or-other-legal-same-sex-relationships

you could do more harm than good. Take the Social Security Administration's message, "we encourage you to apply right away, even if you aren't sure you are eligible" as a statement of *potential eligibility*, not necessarily your best long-term financial strategy.

If you can't stand going through the details of the rest of this chapter, please skip to the end and read the recommended action points. Please at least glance at the graph "Social Security Single vs. Married with "*Apply and Suspend*" at the end of the chapter.

The Basics

I'm going to begin by explaining the basics of Social Security benefits—and for now, we will forget about the marriage issue. A point of contention regarding Social Security is when to begin receiving benefits: as soon as you are eligible, several years later, or even waiting until you are age 70. Let's just talk about whether it makes sense, in general, to take Social Security early. For discussion's sake, let's assume your attitude is, "Well, gee, I'm retired, I'm 62 years old, I've been paying into this system for my whole life, and now it's time for me to get some money out." So you sign up and start receiving benefits. Should you have waited?

Comparison of Taking Social Security at Age 62 or Age 70

First, it is important to understand that the dollar amount of your retirement benefit depends upon the age at which you begin to collect it. Let's assume you were born between 1943 and 1954. Your full retirement age (FRA) is 66. This is set by law. The amount you will get if you begin to collect benefits at age 66 is called your Primary Insurance Amount (PIA). If you begin to collect benefits at a different age, the amount you will receive is a function of your PIA. If you begin early, you obviously start receiving an income earlier, but allowing for interest, etc. (details to follow), you will receive less per month than if you had waited. If you start taking benefits at 62, the earliest age at which you can begin to collect benefits, you will suffer the maximum reduction in benefits. If you begin to collect benefits after full retirement age, you will receive larger benefits. You can get the largest benefit by waiting until age 70. So, the two extremes would be signing up for benefits at age 62, or waiting and taking them at age 70. The earlier you collect, the lower your benefit will be for the rest of your life.

The following table shows the percentage of your PIA (the amount you would get at age 66) that you will receive if you begin to collect benefits early.

Apply at age	Benefit will be % of PIA If FRA = 66
62	75.0%
63	80.0%
64	86.7%
65	93.3%
66	100%

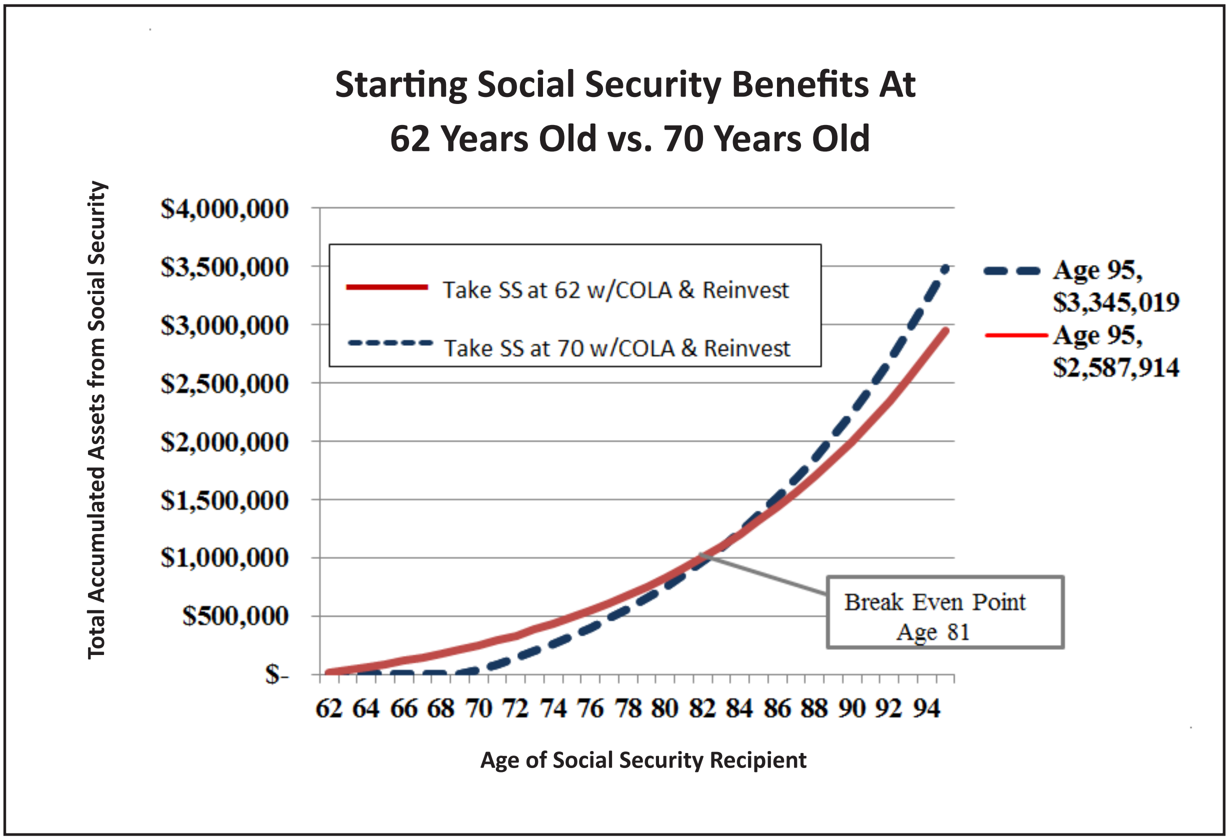
For every year that you wait to collect benefits after full retirement age (FRA) you will earn an extra 8% per year. Please note neither of these charts includes cost of living adjustments (COLA), which in both cases make the advantages of waiting even greater.

Apply at age	Benefit will be % of PIA If FRA = 66
66	100%
67	108%
68	116%
69	124%
70	132%

Running the Numbers for a Single Social Security Recipient

To accurately compare the financial benefits of waiting until age 70 to take benefits, vs. starting to take them at age 62, we are going to assume that you will not spend any of your benefits from the time you start collecting until the time you reach age 70. In fact, we are going to assume that you will reinvest all the benefits you've received, until age 70. If we don't make that assumption, it is extremely difficult to make an "apples to apples" comparison. For our example, we have two single people with identical earnings records. One starts collecting at age 62 and invests all the benefits at 4%. The other one waits until age 70 to begin collecting. The red line on the chart below represents the accumulation over time for the 62-year-old, and the blue line represents the accumulation over time for the one who waited until age 70 to begin taking benefits. If you take benefits at 62, you receive 75% of what you would have received if you waited until age 66, and if you wait until age 70 you will receive 132% of what you would have received had you taken benefits at age 66. By waiting until age 70 you will see a 76% increase in your monthly benefit from what you would have received at age 62. (The math here may not be immediately obvious so, consider an example. If your PIA at 66 is $100, and you decide to begin benefits at age 62 you will get $75. If you wait until 70, you will get $132. The additional amount you would get for waiting is $57 [$132-$75 = $57]. The percentage by which you will have increased your benefit is 76% [$57/$75].)

The person who waits until age 70 to take Social Security and lives past age 81 will ultimately receive a lot more in benefits than the person who takes the benefit at age 62 (age 81 is roughly the breakeven point). That assumes a 4% (after tax) rate of return. If you assume a lower rate of return, the breakeven age would be even younger. Now, you might think that age 81 is a long time to wait to breakeven, but let's think about the issues of long-term financial goals and concerns in more detail.



If you don't absolutely need your Social Security benefits to maintain a reasonable lifestyle, and you anticipate living past age 81 (or even if you think you only have a reasonable chance of surviving until age 81), here is why you should consider waiting. You may think the conservative thing to do is to take it early because if you don't survive to age 81 you will "win." That is the way I used to think about it until I was enlightened.

Larry Kotlikoff, an economist at Boston University, and a guest on *The Lange Money Hour*, taught me a better way to think about it.[12] "Don't think like an actuary," declares Larry, "think like an economist." You have to think about what you *should be* afraid of and what you *should not* be afraid of for financial purposes. For financial purposes, you should not fear an early death. You will be dead, and therefore you will have no more financial problems. What you should be

[12] I have a radio show, The Lange Money Hour, and I talk with the top experts in the areas of retirement and estate planning and investments. Larry was a guest on the show when he enlightened me. There are115 hours of archived shows, including transcripts, which are available at www.paytaxeslater.com.

afraid of, though, is living a long time and not having enough income to meet your needs. The big problem you could face is not having enough money to comfortably sustain you over your *extended* lifetime. What you are doing when you hold off on taking Social Security is ensuring a greater income into your old age. In our example, if you live to age 95, the difference, in terms of the total amount collected, would be $3,345,019 vs. $2,587,914. That's more than $750,000 additional dollars in your own pocket. The key concept to understand is this: the longer you live, the bigger the difference in the amount you collect and the greater your financial security if you live a long time. Let's face it, if you begin taking benefits at age 62 and you don't absolutely need them, and you die shortly thereafter…well you are dead. No more worries. "But wait," you say, "what about my spouse who is still alive. I want to take care of him/her too." Exactly. Remember, in the example above we are only talking about an individual who is *not* married. As will be seen, marriage introduces a completely new set of concerns that make waiting longer to collect benefits even more lucrative. Yes, there is certainly a chance that the Social Security Administration will change its policy in a way that is disadvantageous to you. However, every knowledgeable person I have spoken to about this issue, including Larry Kotlikoff, who is pretty tuned-in politically, says that the risks of taking Social Security benefits early far outweigh the risks of significant reductions for people who are currently age 62 or older.

You should rest assured. You are going to get Social Security benefits as long as you are alive…

Bill Bradley

Delay Claiming Benefits to Provide Long-Term Security for Your Surviving Spouse

Although spousal benefits will be discussed in greater detail later in the chapter, one critical point that needs to be understood immediately is that, typically, the surviving spouse is going to receive benefits based on the higher of the two earnings records. So, by holding off until age 66 or 70, as opposed to collecting at age 62, you are not only creating a higher benefit for the rest of your life, but you're also protecting your lower-earning surviving spouse in the event you predecease him or her. This is an extremely important area, and may even be seen by some as so critical for protecting the lower-earning spouse, that this fact alone may justify getting married. If the objective is to have enough money to live comfortably for the rest of both of your lives, then the person with the stronger earnings record will usually be well advised to wait to collect.

Scenario 1: Married, Surviving Spouse Collects Survivor Benefit

Let's assume that the spouse with the stronger earnings record waits until age 70 to collect benefits, and her benefit grows to $3,000/month. Let's assume her lower earning spouse has a benefit on her own lower earnings record of $2,000/month. The spouse with the stronger earnings record then dies. The surviving spouse, even though her benefit is only $2,000/month, can claim the full amount (which would be the $3,000/month), provided that the surviving spouse has reached full retirement age of 66. Calculating the survivor benefit can be more complicated if the survivor hasn't reached full retirement age, or if the deceased spouse claimed benefits before full retirement age.

Scenario 2: Unmarried, No Survivor Benefit for Surviving Partner

The couple in question is not married. Let's assume the same benefits: the lower-earner's benefit is $2,000/month and the higher-earning partner's is $3,000/month. Then the higher-earning partner dies. The surviving partner will continue to receive $2,000 /month. The other partner's benefits stop when he or she dies. No survivor benefit is paid to the surviving unmarried partner.

The potential for the lower earner to take a survivor benefit if the stronger earner dies first could mean the difference between being broke and being marginally okay, assuming that there are no other resources. This is especially true if there is a big difference between the higher earner's benefit and the lower earner's benefit. The issue of providing for the partner with the lower earnings record is critical. Providing for the lower-earning spouse, in my opinion, should weigh heavily in the decision of when the spouse with the stronger earnings record should begin collecting Social Security benefits. It is not just an individual issue—it is a family issue.

I am not alone in endorsing the general concept of the higher-earning spouse holding off on collecting Social Security. I am only applying a well-documented (but not generally known) concept from the straight couple world to the same-sex couple world. Four guests from *The Lange Money Hour*, all experts in their respective fields, have all basically said that the spouse with the stronger earning record should wait at least until age 66, but probably until age 70, to start collecting Social Security, not just to protect themselves, but perhaps more importantly, to protect the surviving spouse.[13] The four experts who are in agreement on this concept are:

Jane Bryant Quinn, one of the top financial writers in the country

Mary Beth Franklin, former editor of *Kiplinger's Personal Finance Magazine*

Larry Kotlikoff, economist, Boston University

Kathleen Sindell, author, *Social Security: Maximize Your Benefits*

All the experts and authors mentioned above (including me) hate when the spouse with the stronger earnings record begins to collect at age 62. Waiting to start collecting Social Security is probably even more important for women (who generally have longer life expectancies) and for couples whose income after retirement is mostly or entirely made up of Social Security benefits.

Coming Out Later in Life and Protecting Your Partner

When Sue, a lesbian, was young, she began a traditional life, married a man and had children. She came out after her husband died, and now has a female partner. She is very connected to her

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[13] Again, all these shows are archived, with a transcript, and are available at www.paytaxeslater.com.

children and grandchildren. Though she wants to provide for her partner, she feels compelled to leave her children and grandchildren all of her money, much of which came from her deceased husband's retirement plan. With her estate attorney, she drafts wills, trusts, IRA beneficiary designations, etc., leaving everything to a combination of her children and grandchildren. Taking my advice, she waited until 70 to begin collecting Social Security benefits on her own earnings record and now has a benefit of $3,000/month. Her new partner has a benefit of $1,000/month, is retired and can't go back to work, and has no other financial resources.

If Sue does nothing and dies, her partner will continue to get $1,000/month and, unless something unexpected happens, will spend the rest of her life in dire poverty. If Sue marries her partner (and they sign an effective pre-nuptial agreement), Sue can still leave her children and grandchildren all her money. The difference is that her spouse (formerly her partner) would become eligible to collect a spousal benefit (spousal benefits will be explained later in this chapter) during their joint lives ($1,500 if she is full retirement age), and a survivor benefit at Sue's death ($3,000 if she is full retirement age). $3,000/month is a lot better than $1,000/month. The great thing here is that the increase didn't cost Sue, or Sue's children or grandchildren, one nickel.

There are also some stunning strategies where multiple divorced and current spouses can collect on the same high-earner's record, but that is beyond the scope of this book. Nevertheless, if you are divorced you may be eligible for Social Security benefits based on your ex-spouse's earnings record. You should pursue this with the appropriate expert. In the words of one divorced client who "got rid of her husband" then found out she could collect on his Social Security earnings record: "Finally, the no good S.O.B. is good for something!"

The Current Policy of the Social Security Administration

Now, this is where distinctions between straight marriages and same-sex marriages get a bit more complicated. For straight marriages, it doesn't matter where you got married because all of those marriages are recognized by both the state and the federal government. Currently, however, the Social Security Administration uses the laws and policies of the *state of residence* to determine if an individual is "legally married," meaning able to receive spousal Social Security benefits. To be entitled to spousal or survivor benefits, applicants must marry in a state permitting same-sex marriage, *and* be domiciled at the time of application for Social Security in a state that permits same-sex marriage, or have moved to a state that permits same-sex marriage while the claim is pending final determination.

(To see the current policy, go to http://www.ssa.gov/same-sexcouples.)

But don't let that policy stop you from getting married in a state that recognizes same-sex marriages, if you are living in one of the 33 states that does not recognize same-sex marriage. Social Security applications from residents of states that do not recognize same-sex marriages *will be put on hold* until new instructions are issued. So, if you believe you could be entitled to spousal or survivor benefits (and that applying for them immediately is your best Social Security strategy), it is imperative that you apply as soon as possible in order to preserve your filing date. Your filing date will determine your potential starting date for any Social Security benefits to which you are found to be eligible.

As a final twist, it may be prudent to apply for Social Security benefits even if you are not legally married, but you are in a civil union or domestic partnership in a state that recognizes such a union or partnership. (Again, only if applying for benefits *immediately* is your best Social Security strategy).

Strategies to Maximize Social Security Benefits

I will begin by telling you the one resource that you *should not* use to identify the best benefits strategy for you. Do not use the person who works for the Social Security Administration as your Social Security expert. That person is not likely a long-term strategic thinker. He or she is hopefully capable when it comes to providing you with information about your earnings record and your estimated benefit amounts, and for processing your application. Unfortunately, his or her expertise is unlikely to extend to Social Security planning, and most likely won't extend to planning for your overall financial well-being in retirement. I want to scream when I hear, "Oh, I know you told me to hold off on collecting Social Security but the person at the Social Security office said I should start collecting at 62. That's like taking the advice of the teller at the bank who says you should buy an annuity, instead of taking the advice of the CPA/Attorney with 30 years of experience who says you are you better off investing in a portfolio of well-diversified index funds. The person who works for Social Security is not likely to be the person you want to use for strategic decision making. To be fair, there are some smart, capable people who work for the Social Security Administration, who may be able to give you sophisticated retirement and estate planning advice regarding your Social Security options, but I would not count on that person being the one who processes your application.

The goal for most married couples (whether same-sex or opposite-sex) is to identify and, if appropriate, collect the maximum Social Security benefits available for their lifetimes and, ultimately, the remaining lifetime of the surviving spouse. Because spousal and survivor benefits are only available to married couples, any strategy in which spousal and/or survivor benefits are collected will result in cumulative benefits that exceed those available to single people. A strategy such as the "*Apply and Suspend"* strategy discussed below is only available to certain married couples. It maximizes both survivor benefits *and* benefits during the couple's joint life times, and demonstrates a compelling reason for same-sex couples otherwise inclined, to strongly consider marriage.

Spousal Benefits

A spousal benefit is a Social Security benefit paid to someone based upon their spouse's earning history. You can receive Social Security based upon your own earning history, or, if your spouse has a much higher earnings record than you do, you can choose to receive a spousal benefit (50% of your spouse's PIA if it is claimed at full retirement age). The lower wage earner can often collect a higher Social Security benefit based upon their spouse's benefit. The higher wage earner's monthly benefit is not affected in any way. The lower wage earner is eligible to collect more, simply because they are married. Generally, spousal benefits are available during a couple's joint lifetimes.

Consider an example. Sue and Mary are the same age and they got married and are living in New York, a state that recognizes same-sex marriage. Sue has a $2,500/month benefit at age 66. Mary, her spouse, on her own earnings record, has a $1,000/month benefit at age 66. At age 66, Sue can collect her $2,500 benefit. Instead of the $1,000/month benefit due Mary based on her own earnings record, Mary can collect $1,250 (half of Sue's $2,500) per month as a spousal benefit.

Using the Apply and Suspend Strategy to Enhance Cumulative Benefits

My favorite Social Security strategy involves one spouse, usually the one with the stronger earnings record, *applying* for, and then *suspending* collection of his or her benefits: the stronger earning spouse applies for Social Security benefits, and then suspends benefits until age 70. What is the difference between doing Apply and Suspend at 66 and simply waiting until age 70 to collect? For the person applying and suspending, there is no difference. But, by applying and suspending, you allow your spouse to collect spousal benefits based on your earnings record. Now this is the fun part. In this situation, neither individual will be collecting benefits based on his or her own earnings records. Both individuals will continue to earn credit that will enhance their own benefits when they do begin to collect on their own records. In other words, the advantages of waiting to collect Social Security that was discussed earlier will still apply to both spouses even though one of the spouses is collecting a spousal benefit based on the other spouse's earnings record.

Here's How It Works

When the higher earner turns 66, she applies for Social Security and then immediately suspends her benefits. The lower earner can then file a restricted application for Social Security benefits (applying for spousal benefits, but not all of the Social Security benefits that this spouse is entitled to). From ages 66 to 70, the lower earner collects this spousal benefit. In the meantime, the benefits for both spouses continue to grow, just as if neither of the two had collected any Social Security benefits at all. When the lower earner reaches 70, she is then able to choose between the Social Security benefit based upon her own earnings, or she can continue to receive the spousal benefit, obviously whichever is greater. What is really fun is that even though she was collecting a spousal benefit between age 66 and 70, her own personal benefit was not reduced and actually continued to grow as if she had not claimed a nickel. At age 70, the higher earner "unsuspends" her benefits and begins collecting her Social Security. Claiming a spousal benefit does not impact the earning record or the allowable benefits for either of the spouses. So, in addition to strengthening both benefits by four years, there is a "free" four-year spousal benefit. Full retirement age must be reached before an individual can suspend collection of his or her benefits. Again, full retirement age is age 66 for people born between 1943 and 1954. I have no idea why the government decided to allow married Social Security recipients to be treated so generously. Maybe someday they will change it, but right now, this is a grand strategy for many married couples.

This can be an enormously beneficial strategy, but it won't work for everyone. The spouses' ages and circumstances must be "right" in several ways. There are other strategies that could be more advantageous than this one, for your particular circumstances. The point of this chapter is not to give an exhaustive analysis of every Social Security strategy. Instead, the point is to show there are extremely advantageous strategies that you should know about and consider when planning your finances and even the decision to get married. As I said earlier, much will depend upon your personal circumstances.

Should the Apply and Suspend Technique Factor into a Decision to Get Married?

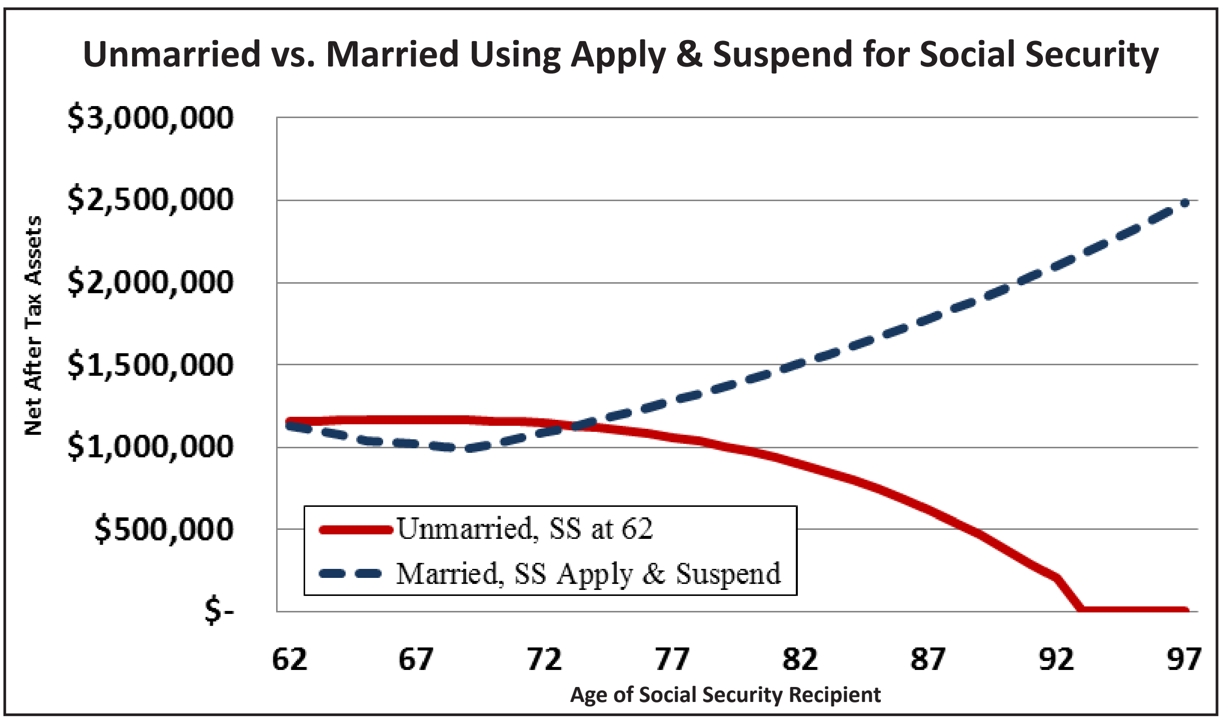
Doctor Dan and Baker Bob are the same age and deciding whether it would financially beneficial to marry. Doctor Dan and Baker Bob both would like to retire at the age of 62. Together, they have combined assets worth approximately $1,000,000. The couple estimates that their current annual living expenses are around $75,000 (increased annually for cost of living). During every year of his career, Doctor Dan earned the maximum amount that "counts" for Social Security. Knowing this, we can estimate the benefit he would receive if he began collecting at age 62, age 66 and age 70. Those amounts are $23,422, $31,232, and $41,226 per year respectively. During every year of his career, Baker Bob earned a more modest amount. Assume for this example that the benefit Baker Bob would receive if he began collecting at age 62, 66 and 70 are $5,000, $6,667, and $9,070 per year respectively. Doctor Dan's goals are: 1) retire immediately, and 2) make sure that funds are available to support himself and Baker Bob until the end of both of their lives. The following scenarios paint different pictures for collecting Social Security benefits.

1) The couple remains unmarried and they each collect their Social Security benefits at the age of 62. Baker Bob would receive $5,000 in benefits and Doctor Dan would receive $23,422 in benefits. As the trusted advisor, I would not recommend that they retire at age 62 given their spending, but the client wants to retire now.

2) The couple gets married. Since this couple has other money available for living expenses, they follow my recommendation and do not collect Social Security benefits upon retirement

at age 62. Instead, Doctor Dan applies for his benefits at age 66 and suspends them until age 70. Baker Bob can then claim the spousal benefit of one-half of Doctor Dan's benefits, or $15,616, starting when Baker Bob is age 66. This is much higher than Baker Bob's own benefit, which would be $6,667 at that time. Because he has waited, Doctor Dan's benefits will grow by the 8% delayed benefit per year from 66 to 70, plus cost of living increases until he turns 70, thus increasing the money available to care for both of them in their later years.

The following graph illustrates the difference in their assets had they remained single and collected at 62 versus getting married and using the Apply and Suspend strategy. If both partners are alive at age 80, the difference in their net worth will be over $440,000. If they both live to be 90, the difference in their net worth will be over 1.5 million dollars.

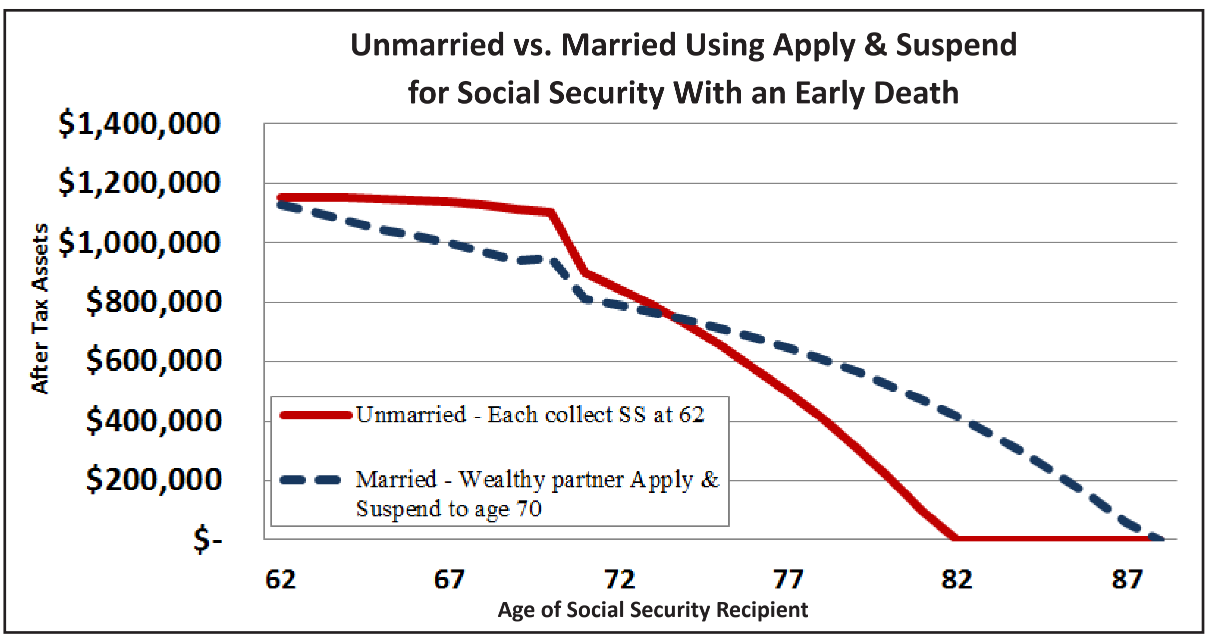


This graph reflects the following assumptions:

1. Both men were born 1/1/1952.
2. Starting date of projection is 1/1/2014, the year both partners turn 62.
3. Dr. Dan starts with $1,100,000 in after tax assets.
4. Baker Bob starts with $50,000 in after tax assets.

5. Includes a 6% Rate of Return.
6. Includes an allowance for 3% inflation of expenses, tax brackets, and Social Security.
7. Annual living expenses are $70,000 for Dr. Dan and $5,000 for Baker Bob (plus income taxes).
8. In the single scenario, Dr. Dan receives $23,422 in Social Security benefits, Baker Bob receives $5,000 plus COLAs, both at age 62.
9. In the married scenario, Dr. Dan receives maximum Social Security benefits of $41,226 at age 70 plus COLAs, Baker Bob receives 15,616 at age 66 (½ of Dr. Dan's benefits at age 66) plus COLAs.

Now, let's imagine a worst case scenario. Both Doctor Dan and Baker Bob have drafted wills, trusts, etc. saying that if something were to happen to one of them the other would inherit all the assets. Then, Doctor Dan, who used to keep his patients waiting for hours, develops cancer and dies…waiting in the office of his oncologist. Baker Bob inherits all of Doctor Dan's assets. How long those assets will last is very different, depending on whether they married and use Apply and Suspend versus both taking their Social Security at age 62.



At age 82, just because the men chose to get married and use the Apply and Suspend technique, Baker Bob has a little over $400,000 in additional money to apply towards retirement.

This graph reflects the following assumptions:

1. Both men were born 1/1/1952.
2. Starting date of projection is 1/1/2014, the year both partners turn 62.
3. Includes a 6% Rate of Return.
4. Includes an allowance for 3% inflation of expenses, tax brackets, and Social Security.
5. Annual living expenses are $75,000, adjusted annually.
6. Doctor Dan dies 12/31/2022 at age 70 and leaves all his wealth to Baker Bob.
7. The current PA Inheritance Tax rate is 15%. At the date of publication, PA does not recognize same-sex marriages. When PA wakes up and joins the nationwide trend of acknowledging the rights of same-sex couples , and we fully expect that this will occur, the following differences becomes even more significant.
8. In the single scenario, Dr. Dan receives $23,422 at age 62, Baker Bob, $5,000 at age 62.
9. In the married scenario, Dr. Dan receives maximum Social Security benefits of $41,226 at age 70 plus COLAs. Baker Bob holds off taking a spousal benefit until age 66. He then receives ½ of what Dr. Dan would have received at age 66 or $15,616 (1/2 times $31,232.) plus COLAs. After Dr. Dan dies, Baker Bob receives survivor benefits of $41,226 plus COLAs.

The blue dashed line in the chart above shows how much money will be available to care for Baker Bob if the couple remains unmarried, takes his Social Security early, and Doctor Dan dies at age 70. If he doesn't marry, and doesn't change his spending habits, Baker Bob will run out of money at the age of 82.

The red solid line represents Baker Bob's prospects if they get married and use the Apply and Suspend strategy. Baker Bob will have an additional $400,000, enough money to cover his expenses for six more years. Then, even after depleting the after-tax assets he and Doctor Dan had at retirement, he will still have a much higher Social Security benefit the rest of his life.

Notice the significant drop in after-tax assets in the year of Doctor Dan's death at age 70. This was caused by the Pennsylvania inheritance tax. Currently, this tax is assessed on same-sex partners whether they are married or not. Once Pennsylvania recognizes same-sex marriages, the inheritance tax on same-sex married couples will presumably be eliminated and the difference in this example would be even greater.

Ultimately, it would seem that the best financial strategy for Doctor Dan and Baker Bob would be to get married, delay Social Security benefits until age 66, and then use the Apply and Suspend strategy. Doctor Dan should also consider doing a series of Roth IRA conversions starting at age 62. While Roth IRA conversions are beyond the scope of this book, there are enormous benefits to doing a series of Roth IRA conversions while you are in a lower tax bracket.

Here is a summary of the basic Apply and Suspend technique:

1. At full retirement age, 66, the higher-earning spouse applies for Social Security benefits and then suspends collection.
2. The lower-earning spouse (also at full retirement age) applies for a spousal benefit.
3. At age 70, the higher-earning spouse will "unsuspend" and apply for his or her own benefit.
4. At age 70, the lower-earning spouse will either continue to collect the spousal benefit he or she has been receiving since age 66, or switch to his or her own benefit, depending on which is greater.

   (As mentioned earlier, calculating the spousal benefit is more complicated if the lower earning spouse has not yet reached age 66, or if the stronger earning spouse had starting collecting before reaching 66.)

An Alternative Strategy: Claim Now, Claim More Later

There is also an alternative strategy to Apply and Suspend, in which the person with the stronger earnings record applies for a spousal benefit based on the record of the lower-earning spouse, then applies for the benefit on his/her own earnings record later (at age 70, for the maximum benefit) in order to accrue delayed retirement credits on his/her own benefit. This strategy may produce a better result than Apply and Suspend, depending on the relative ages of the spouses. That is also beyond the scope of this book, but it would be worth seeking the advice of a professional.

Summary of the Key Points and Five Strategies You Can Use To Maximize Your Social Security Benefits

The key points to remember when deciding on the timing of applying for Social Security benefits are:

1. If you apply early, your monthly benefit starts lower *and* stays lower for life.
2. Cost of living adjustments (COLA) will magnify the impact of early or delayed benefits.
3. The longer you live, the more beneficial it will have been to delay benefits.
4. Your decision to apply early or later impacts survivor benefits as well as lifetime benefits; delaying benefits may give your surviving spouse more income.
5. Spousal benefits must be taken into consideration.

There are five strategies that you can use to maximize your Social Security benefits and maximize your purchasing power. They are:

1. Improve your earnings record
2. Apply for Social Security at the optimal time

3. Coordinate spousal benefits, including the Apply and Suspend strategy

4. Minimize taxes on your benefits

5. Coordinate your Social Security benefits with other financial decisions and strategies

Let's discuss these strategies one at a time.

1) *Improve Your Earnings Record*

If you have already earned income up to, or exceeding, the Social Security wage base for 35 years, continuing to work may increase your benefit somewhat, but the increase is not likely to be substantial. If you have not been a maximum earner for 35 years, working longer will make a significant difference in your monthly benefit. The longer you work, the stronger your earnings record is going to be. I hate it when people who enjoy their work retire early so that they can get a benefit earlier. That doesn't make sense. If you like what you're doing, keep working—ultimately that's more money for you and for your spouse! I genuinely hope that all of you enjoy good health and live until a ripe old age, and it is my goal to make sure you have sufficient money to enjoy it.

2) *Apply for Social Security at the Optimal Time*

To figure out the optimal time to apply for Social Security, you must take into account your income needs, both now and in the future, your life expectancy, and your spouse's life expectancy. Suzanne, a 62 year old retiree, has a serious health problem that causes her to believe she is *not* going to make it until age 81, the theoretical "breakeven" age for Social Security using the assumptions above. She may think that she'll be lucky to make it to age 72. If she is single and not planning on getting married, Suzanne should probably apply for Social Security benefits at age 62. But, if she is married and has the stronger earnings record, she might want to wait to collect her benefits to ensure that her surviving spouse will get the higher benefit. Suzanne's health, marriage status, and estimated life expectancy are all very important parts of her analysis. What is your genetic factor? How long did your parents live? These are important questions to ask. While in general I recommend holding off, particularly for married people, sometimes it does make sense to collect early.

3) ***Coordinate Your Spousal Benefits to Produce Free Money***

Consider whether you can use the Apply and Suspend strategy or the "Claim Now, Claim More Later" strategy at your full retirement age to produce "free money" over the years from age 66 to age 70.

4) ***Minimize the Taxation of Your Benefits – Always a Good Idea***

There are different tax-planning techniques that will enable you to minimize income tax and also get the maximum enjoyment from your Social Security benefits. For example, even just holding off on Social Security benefits until after you're retired may keep you in a lower tax bracket. It may also produce a window of opportunity for annual Roth IRA conversions between the time you are retired and no longer receiving a paycheck, and when you turn age 70. Holding off on Social Security during those years will give you an opportunity to make larger Roth IRA conversions while you are in the lower tax brackets. Then, at age 70, when there is no advantage in holding off on Social Security, you collect the maximum benefit and you have also succeeded in making Roth IRA conversions while in the lowest tax bracket you will be in for the rest of your life. This assumes you have a substantial traditional IRA and will have to start taking minimum required distributions at age 70½. Once again, I recommend seeking the advice of a professional to coordinate Social Security and Roth IRA conversions. But it might be difficult to find a professional who really understands enough of the concepts to effectively "run the numbers." This is a niche that we have cultivated and take pride in doing well.

5) ***Coordinate Your Social Security Benefits with Your Overall Retirement Income Plan***

Earlier in this chapter, I made the point that Social Security shouldn't be considered in a vacuum. There are many interrelated parts of a good financial plan. I like to integrate everything: a Social Security plan, an IRA plan, a long-term Roth IRA conversion plan, a general tax plan, an estate plan, and an investment plan. You must also take into account everything else that is going on, such as your pensions, your IRAs, your 401(k), your minimum required distributions, your working income, and your investment portfolio, and even the timing of when you should get married. What you don't want to do is to have an independent strategy for each piece of the puzzle. You want a synergistic strategy that incorporates all parts of your financial plan in concert with your life plans. And, this chapter provides compelling support for the proposition that committed same-sex couples in their sixties or older should likely get married to dramatically increase their financial security with Social Security during both of their lifetimes and after the first death.

For over 30 years I've been helping couples and families with retirement and estate planning. In 2002, I saw that your community, the LGBT community, was being grossly underserved in the retirement and estate planning world so I devised some good strategies. Now, with new laws advancing equality, there are even greater opportunities for same-sex couples to ensure financial security and wealth for generations to come. We want you to take advantage of your legal rights and we want to assist you in protecting yourself and your family against the legal inequities that you continue to suffer. No matter what your situation, we will find a way to put you and your family in the best retirement, tax, and estate planning position you can be in.

To learn more about my firm and how I can help you to protect you and your family's financial future, please click on this link http://outestateplanning.com/contact-us/

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