Hi Everybody,

Back in February, I did a 90-minute Social Security teleconference for advisors all across the southwest. The webinar was sponsored by BOKF which is the parent company of the Bank of Albuquerque. The advisors had some very interesting questions on topics like multiple marriages, benefit suspension, taxability of benefits, younger spouse and survivor benefits.

I used those questions as the basis for this quarter's Social Security Blanket newsletter, available on our website at:
http://www.mgm-llc.com/p/newsletters
and click on the link that says
2015 – 1st Quarter – The Social Security Blanket

I'll be teaching both Social Security and Medicare classes this summer through the UNM Osher program. Minimal cost. Register here:
http://issuu.com/unmce/docs/osher-su15-catalog
Look for the classes on page 15 or search for my name (Doug Lindsey) or the word "Savvy".
Savvy Social Security for Boomers: June 18 from 3-5pm
Savvy Medicare Planning for Baby Boomers: June 25 from 3-5pm

I'll also be teaching the Savvy Social Security Planning course at Grace Church on Monday May 18th from 6-8pm. Free! Details here:
http://www.mgm-llc.com/p/newsletters
and click on the link that says
2015 Educational Workshops at Grace Church

To sign up, email the office at register@mgm-llc.com or call us at 505-346-3434 and let us know how many will be attending. Bring your spouse, parents, kids, neighbors and friends!

Regards,

Doug

Question 1-Resources

What are some good Social Security resources?

1. Stenken's annual "Social Security & Medicare Facts" – yes it is pricey, but crazy-thorough. Like having your own direct line to the lady who has worked at Social Security for 40 years and wants to help you!
2. "Get What's Yours" by Kotlikoff and others – I'm part-way through this one and liking it – lots of other books on amazon about Social Security too.

3. http://www.horsesmouth.com/ - “helping advisors succeed” – also see: https://www.savvysocialsecurity.net/Default.aspx
4. Mary Beth Franklin’s blog on InvestmentNews: http://www.investmentnews.com/staff/mbfranklin
5. Michael Kitces blog – Nerd’s Eye View: https://www.kitces.com/blog/
6. The SEARCH box on ssa.gov. From the search box, you can find all kinds of interesting stuff:
   - Social Security Rulings and Acquiescence Rulings: http://www.socialsecurity.gov/OP_Home/rulings/rulings.html
   - Freedom of Information Act – all of the Social Security manuals: http://www.socialsecurity.gov/foia/html/manuals.htm
   - The Program Operations Manual System (POMS) – the SSA internal book your Social Security representatives use to figure out the hard stuff: https://secure.ssa.gov/poms.nsf/home!readform
   - The Social Security Handbook – plain language for use by the public: http://www.socialsecurity.gov/OP_Home/handbook/handbook-toc.html

Question 2-Multiple marriages

When someone re-marries, how long do they have to be married to get 50% of the new spouses benefit at their normal 66 and 2 months? What if they were married to the prior spouse 26 years? Do they NOT get benefits from either spouse if not married the second time at least 10 years.

Let's say your Wife-client is remarried to Husband2. She has to be married for one year to Husband2 before she can collect spousal benefits on his record. She can claim as early as her age 62 with a reduction, but if she wants the full 50%, then she has to wait until HER full retirement age (FRA). If she was born in 1955, then 66+2 months. Her spousal benefit won't grow past her FRA.

If she was married to Husband1 for more than 10 years, then she could collect divorced-spouse benefit on Husband1's record, but ONLY if she is still divorced.

For spousal benefit, remember the other rules besides "married for one year:"
Wife has to be at least 62
Husband has to have filed for benefits (or "file and suspend" if he is FRA)
No delayed credits on the spousal benefit (she doesn't participate in his 8% annual bump from his FRA to his age 70)

The "at least 10 years" rule only applies for the divorced spouse benefits. That marriage had to last 10 years or more. And the person receiving the divorced-spouse benefit must currently be unmarried.

Here's a good Forbes article describing some of the details in your question:
http://www.forbes.com/sites/kotlikoff/2014/08/19/social-security-qa-how-long-must-you-be-married-to-collect-different-benefits-on-your-ex-spouses-record/

Although I don't recommend it, you can read the actual Social Security Act (yes, very exciting) here:
http://www.ssa.gov/OP_Home/ssact/ssact-toc.htm
http://www.ssa.gov/OP_Home/ssact/title02/0216.htm

Question 3-Suspension

My client just lost his job. His wife is 62 and is working. He will be 66 (FRA) in a couple of months. What he would like to do is to collect SS at FRA and then if he gets a teaching job next fall, he would like to suspend the benefits. So my question is this:

Is it better to file and suspend upon turning 66 and then the next month turn off the suspension, begin to collect benefits and see what happens? Meaning if he gets a job in the fall, he can then turn around and either payback what he took or simply suspend from that point forward.

OR

Should he simply file and collect benefits, wait and see if he gets a job, and if he does, suspend it at that point? I'm not sure which is the best route to go. I'm curious to hear what you think.

If your client needs the Social Security check to meet monthly expenses (you didn't say so, but that is my assumption), then it is likely best for him to file and collect benefits at his age 66 (full retirement age=FRA). If he gets a job within 12 months of collecting, then he has a choice.

Option A: he can take the "once in a lifetime do-over" (SSA calls it a "withdrawal") and payback the entire amount paid to date.

Option B: once he is employed again, he can simply suspend benefits from that point.

If he takes Option A (maybe difficult if money is tight – how does he pay it back?), then his delayed retirement credits (DRC of 8% per year from FRA to 70) will grow from his age 66 forward, resulting in a bigger lifetime benefit than under Option B. If he takes Option B, then he won't have to pay back any of his Social Security checks and his DRC will grow from THAT POINT forward, resulting in a smaller benefit than Option A.

If he gets a job AFTER 12 months of collecting benefits (age 67 or later), then his only choice is Option B, suspend from that point forward. Let's say he gets a job and suspends benefits at age 68. Then he will earn two years of 8% DRC from 68 to 70, instead of the four years he might have earned from 66 to 70 if he hadn't been collecting benefits from 66 to 68.

There is really no advantage in your client's situation to doing a "file and suspend" at 66 and then immediately starting his benefit. If the client needs the cash at his age 66, then he can just start collecting.

The “file and suspend” is useful in two scenarios. One is to turn on the option for spousal benefit for his wife. The second is to secure his ability to go back and claim a “lump sum” if he has a cash emergency or other change of plans between age 66 and 70. For example, your client is planning on earning his 8% annual DRC from age 66 to 70 but let’s say the wife isn’t going to collect spousal benefit for some reason (maybe she is 10 years younger than him and can’t – she’ll be 56 when he is 66 and she has to be at least 62). If he does “file and suspend” at age 66 and then at age 68 has a health crisis and needs cash, then he could turn on his benefit as if he had started at 66 and Social Security will send him “back pay” from his point of suspension to now, two years of checks. His check going forward (AND his wife’s survivor benefit if he dies first) will be smaller than if he had just claimed at 68, but he will have cash on hand for medical treatment or travel or whatever. This will not be an easy decision and it will be a trade-off between having big money in hand right now versus building a larger survivor benefit for a young wife.

The “suspend” option is only available from FRA and beyond (basically from 66 to 70). The “withdrawal” option can happen at any age as long as it within one year of starting and “once in a lifetime” (yes, Talking Heads fans, sing along here).

Some resources for further reading:

http://www.ssa.gov/retire2/withdrawal.htm
https://www.kitces.com/blog/why-individuals-should-file-and-suspend-their-social-security-benefits-reinstatement-of-voluntary-suspension-versus-retroactive-benefits/
https://secure.ssa.gov/poms.nsf/lnx/0202409130

Question 4-Taxability

I don’t quite understand the taxability of Social Security. I thought “provisional income” only included W-2 or 1099 income but you’re saying it includes investment income too? Bummer. If I’m married and in the low end of the 15% tax bracket, how can taking a small IRA distribution create a tax bill bigger than my marginal rate?

You are correct, “provisional income” goes way beyond W-2 income and includes your ordinary stock dividends, IRA withdrawals and pensions PLUS the tax-exempt muni bond interest. Bummer indeed.

But before you get too worked up over this problem, run the tax numbers on your specific situation. The Kitces article below will help you wrap your brain around the taxability of Social Security in your situation. If you’re fighting the higher tax brackets already, it is going to be difficult for you to keep your provisional income under the taxable limits. But, if you’re in the 15% or lower bracket, careful tax planning is in order.

If you’re in the 15% tax bracket and 85% of your SS is taxable, then there is a bubble in the taxability decision where your marginal rate can spike, then it drops back down to your marginal rate again. For example, consider a couple married-filing-joint (MFJ) with AGI of $44k and SS of $24k. Total income is

$68k but provisional income only counts half of SS so provisional is $56k (44k+12k). Taxability of SS on dollars over $44k ($12k in this case) is at 85% or $10,200. Taxability on dollars between $32k-$44k (another $12k) is 50% or $6000 for total of $16,200.

Tax bill on the $16,200 of Social Security is 15% or $2430.

Now let's say the same couple decided to take another $5000 of income, maybe from an IRA withdrawal. If they're in the 15% bracket, you'd figure 15% of $5000 would create $750 of additional taxes, right?

Wrong. Because now MORE of their Social Security check is taxable.

In this case, MFJ with AGI of $44k + the new $5k IRA withdrawal + SS of $24k. Total income is $73k but provisional income only counts half of SS so provisional is $61k (49k+12k). Taxability of SS on dollars over $44k ($17k in this case) is at 85% or $14,450. Taxability on the dollars between $32k-$44k (another $12k) is 50% or $6000 for total of $20,450 ($4250 MORE than first example).

Tax bill on the $20,450 of Social Security at 15% is $3067.50 or $637.50 MORE than the first example.

So the $5000 IRA withdrawal cost 15% tax rate of $750 PLUS the $637.50 additional tax on SS or $1387.50 total. As a percentage of the $5000, that is 27.75%. Ouch.

While this is surprising to many clients, it isn't an earth-shattering increase. And the tax pain eventually stops since the maximum percentage of Social Security that is taxable is 85%. In the example above, that is .85 of $24k = $20,400. So at some point, the next $1 withdrawal out of the IRA drops back to costing 15% since it no longer triggers the additional tax on the Social Security.

While avoiding taxability of Social Security is a good goal, how far can you reduce income before it starts to impact lifestyle? And is it even possible?

Take a high-earning 70-year old couple with combined SS benefit topping $70k. For provisional income purposes, half is $35k and you've already got taxable SS benefits without adding any other income source. They likely have a healthy IRA, so RMDs will kick in soon. And you're done. While tax planning is certainly in order for this couple, saving taxes on Social Security isn't going to take them very far!

Hope this helps.

Question 5-Spousal Benefits & Working

My client, the husband, is 70, retired and has started SS. His wife is nearing 69 and still working. She has not filed for spousal benefits. Since she is still working would she be eligible for them?

Yes, she is absolutely eligible for spousal benefits (as long as they've been married for at least one year!).

If the wife's own benefit at her age 70 will be larger than her spousal benefit (50% of his age 66 number), then she should file an application "restricted to spousal benefit only." My understanding is that SSA will also retroactively back pay her for the previous 6 months, so be sure to ask about this. The sooner she files, the sooner she can start collecting! This will let her collect spousal benefit while her own benefit continues growing by the Delayed Retirement Credits (DRC) at 8% per year. Then once she turns 70, she can switch to her own benefit.

If the wife's own benefit at her age 70 will be SMALLER than her spousal benefit, then she should just file a regular application now, no need to worry about the "restricted" language. SSA will determine her maximum benefit and start paying her now and nothing changes at her age 70. However, while she continues working, SSA will recalculate her benefit each year (that's one more year of salary to possibly replace zeroes or smaller salaries from earlier years).

In either case, since she is over her Full Retirement Age (FRA), she can earn as much as she likes in her job – no earnings test and no withholding of SS benefits.

SSA can help you with this calculation, so call them at 1-800-772-1213. It will be easiest if you have the wife on the line with you, otherwise you end up playing "make-up" numbers games which is never as precise as having the client on the phone.

Question 6-Survivor Rules

I have clients in Washington state who have been living together as "husband and wife" for 20 years but they are not legally married. If they get married, do they only have to be married for one day for survivor to get SS benefits when other passes away? Both age 57.

Well, this is an interesting question. Since Washington does not allow for common law marriage, the 20 years this couple spent together does not weigh into the decision. Note that since Social Security recognizes state laws, if your clients had lived in a common law state (Colorado for example), then their marriage would also be recognized by Social Security.

If your clients get married in Washington, then they have to be married for at least nine months prior to the date of death of the first spouse to die. Exceptions to this "9 months rule" include accidental death or line-of-duty death for an armed services member.

Let's pretend they've been married for 9 months and husband dies at 58. Widow must wait until age 60 to collect (unless she is disabled or has minor children) and she must not be remarried before age 60. After age 60, she can remarry and still collect survivor benefits on the first deceased husband's record.

Some web resources for further reading:

http://www.socialsecurity.gov/OP_Home/handbook/handbook.17/handbook-1717.htm

http://www.wsj.com/articles/what-common-law-couples-can-expect-from-social-security-1407630511 http://www.nolo.com/legal-encyclopedia/common-law-marriage-social-security-dependents-survivor-benefits.html

http://www.nolo.com/legal-encyclopedia/common-law-marriage-social-security-dependents-survivor-benefits.html

http://www.socialsecurity.gov/OP_Home/handbook/handbook.04/handbook-0404.html

Question 7-Much Younger Spouse

I am 67 and my wife is 13 years younger. Is there a particular planning opportunity I should be thinking about with those circumstances other than me not kicking the bucket anytime soon! For now I plan on withdrawing my SS benefit amount from my accumulated assets as the 8% yearly increase is too much of a guarantee to pass up. If I pass away before taking FRA benefit, does my wife's age figure into what she would get or do I recall she gets 50% of my benefit since she is not eligible for FRA for several years? If I start my FRA benefit say this year and after starting I pass away what would she get? It seems what she gets if I am not around should be my biggest concern?

Remember the 50% rule applies to spousal benefits while you are alive. At the death of the first spouse, survivor rules apply instead.

Since your wife is considerably younger than you, I would agree that building your survivor benefit to the biggest number possible is likely a good strategy, especially if you earned more in your career than she. If you're building delayed retirement credits and die before collecting (say you pass at 69), then she will be eligible under the survivor benefit rules based on your number as of the date of your death.

At your age 69, she would be 56. A widow must wait until age 60 to collect (unless she is disabled or has minor children) and she must not be remarried before age 60. After age 60, she can remarry and still collect survivor benefits on your record. Yeah, sorry for that unhappy thought!

As a widow, she will need to wait until her full retirement age (likely 67 since I'm figuring she was born in 1960 or later) to collect 100% of your benefit amount as of the date of your death. If she starts early, she is subject to an actuarial reduction, 71.5% of your number if she starts at age 60. See here for details:

http://www.socialsecurity.gov/planners/survivors/onyourown5.html

If she has a decent work history, one strategy might be for her to collect 71.5% of your benefit at her age 60, allow her own benefit to grow to her age 70 and then switch to her own benefit. This only makes sense if her own benefit could grow larger than her reduced benefit based on your record.

If you died early, say 69, it seems that the tough cash flow period for her is from her age 56 to 67. She needs other sources of income for 11 years to make it to her FRA at 67 or she has to take a reduced benefit if she starts Social Security survivor benefits anytime from her age 60 to 66; plan with this worst-case scenario in mind.

If your health is good, then likely you will live an average life expectancy of 85 (ssa.gov life expectancy calculator says 85 for a man born 1/1/48) and so she would be 72 at your death and eligible for 100% of your Social Security check. Since this is the most likely scenario, it is probably the one I would recommend in your situation.

If your life expectancy is short, then perhaps you want to draw Social Security at 66 and bank the money as insurance for her against your early passing. The gotcha is that you likely want to spend time/money with her NOW while you are still here and healthy. And once again we meet the pull of current spending needs against future expenses. No perfect answer; just trade-offs. My best advice is to STAY HEALTHY!

Question 8-Common Law and Same-Sex Marriages

What about Social Security benefits for gay marriage and common law marriage couples?

Social Security follows the marriage laws of each state and therefore recognizes common law marriages in states where common law marriage is legal. If you live in a common law state, like Colorado for example, then your marriage is recognized by Social Security. But if you live in a state that does NOT recognize common law marriage (say Washington), then you are not considered married for the purposes of Social Security benefits.

See:

http://www.ncsl.org/research/human-services/common-law-marriage.aspx

http://www.socialsecurity.gov/OP_Home/handbook/handbook.17/handbook-1717.html

Ditto for same-sex couples; if the state of residence allows same-sex marriage, then the couple is eligible for spousal and survivor benefits. One of the gotchas is for same-sex couples who marry in a state that recognizes same-sex marriage (say Illinois) and then moves to a state that doesn't (say Kentucky).

The rules here are still unclear, so the best advice to give your same-sex married clients is to call SSA at 1-800-772-1213 and discuss their situation with a Social Security agent. As this is a moving target in many states, SSA is encouraging same-sex married couples living in states that don't recognize same-sex marriage to go ahead and apply for benefits anyway.

See Mary Beth Franklin's latest news here:

http://www.investmentnews.com/article/20141118/BLOG05/141119910/a-crash-course-on-social-security-benefits-for-gay-couples