

Rules for Divorced Spouses

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Divorced spouses who were married at least 10 years and who are currently unmarried may be able to collect benefits on an ex's earnings record. If you were married less than 10 years before divorcing, you are not eligible to claim spousal benefit on your ex-spouse's earning record.

Social Security benefits are gender neutral, so both men and women may be able to claim spousal benefits on their former spouse's earnings record while they are alive and survivor benefits after their former spouse's death.

Like married couples, if an ex-spouse is eligible for both retirement benefits on her own earnings record and as a former spouse, he or she would generally be paid the higher of the two amounts, not both.

A divorced spouse's benefit is worth up to half of the former spouse's full retirement age amount if claimed at full retirement age or later. A divorced individual can claim benefits on a former spouse's earnings record as early as age 62, but benefits would be permanently reduced.

If your full retirement age is 66 and your claim spousal benefits at age 62, they would be worth just 35% of a former spouse's full retirement age benefit. If your full retirement age is 67 and you claim Social Security at age 62, your spousal amount would be worth just 32.5% of your former spouse's full retirement age benefit amount.

If an eligible divorced spouse were born on or before January 1, 1954, he or she could file a “restricted claim for spousal benefits” on an ex’s earnings record at full retirement age or later and collect a spousal benefit worth half of the ex’s full retirement age benefit amount. In the meantime, the spouse’s own retirement benefit would continue to grow by 8% per year up until age 70 when he or she would switch to her own maximum benefit.

Divorced spouses born after January 1, 1954, cannot use this strategy of filing “a restricted claim for spousal benefits.” Whenever they file for Social Security, they would be “deemed” to file for all available benefits and would be paid the largest benefit to which they are entitled at that age, whether on their own earnings record or as a spouse. They don’t get to choose.

When it comes to filing for Social Security, divorced spouses have an advantage over married couples. A divorced spouse who was married at least 10 years, has been divorced at least two years, and who is currently single may be able to claim benefits on an ex’s earnings record even if the ex has not yet claimed benefits. To be eligible file for benefits as an “independently entitled ex-spouse,” both former spouses must be at least 62 years old.

Married couples can’t do that. For currently married couples, one spouse must claim Social Security to trigger a spousal benefit for the other spouse.

In addition, if both ex-spouses were born before January 1, 1954, each could file a restricted claim for spousal benefits on the other’s earning record. This year, 2023, is the final year for eligible individuals to take advantage of the restricted claiming filing strategy as those who were born before the 1954 cutoff date will be age 70 or older by the end of this year. Delayed retirement credits, which increase benefits by 8% per year when benefits are postponed beyond full retirement age, end at age 70.

The benefit amount you receive based on a former spouse’s earnings record will not reduce the amount that your former spouse receives, nor will it affect the benefits of any of his or her new family members if your ex remarries.

The key to collecting benefits on a former spouse’s earning record is you must be currently single. If you remarry, you lose the right to collect on a former spouse, unless your subsequent marriage ends through death, divorce, or annulment.

However, if you wait until age 60 or later to remarry, you still can’t collect benefits on a living ex’s earnings record, but you can collect survivor benefits on your ex, even if you are married to someone else at the time.

So, let’s review. Your benefits as an ex-spouse while your former spouse is alive are worth up to 50% of his or her full retirement age benefit. Your benefits as a surviving ex-spouse after your former spouse dies are worth 100% of your ex’s benefit amount—including any delayed retirement benefits he or she may have accrued by postponing benefits beyond full retirement age. That’s right. Your ex is worth twice as much dead than alive!

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Contact Mary Beth's Team



Ask a Social Security Question for Free

Please ask your Social Security question here and Mary Beth or an expert Social Security Advisor will answer you.

Your Name *

You Can Use an Anonymous Name if You Prefer

Email *

Phone *

Gender *

Date of Birth *

Employment Status *



Do You Have Children Under 18 or Disabled Prior to 22?

Do You Have or Will You Have a Non-Covered Pension? *

This is a pension from a job where you DID NOT pay into Social Security.

Have You Started to Collect Social Security? *

What is Your Marital Status? *

If you were married for at least 10 years before getting divorced, select

"Divorced" otherwise if it was less than 10 years, select "Single."

What is Your Social Security Question for Mary Beth and Her Team? *

Please enter your Social Security question here



SUBMIT MY QUESTION

