



## **Social Security and Divorce**

*by* STEPHEN MCDONOUGH *on* OCTOBER 21, 2009

I have received couple of questions on how divorce may affect social security benefits over the past week, so I thought a post on this topic might be helpful.

First, a good point to remember is that social security is a federal system, and is thus controlled by federal regulations. Social Security benefits cannot be bargained like other assets or retirement accounts since the receipt of social security benefits, how they are paid, and to whom are all controlled by federal law. This is why you don't see sections on social security benefits in divorce agreements.

A divorced spouse may be entitled to social security benefits, but this really depends on the eligibility of the person that they were divorced from. In order to be eligible for retirement or disability payments, the marriage to the retired or disabled person must have lasted at least ten years, and the spouse applying for such benefits must not be remarried. If a subsequent marriage ends by another divorce or due to death, then eligibility may then be re-established. A divorced

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spouse may then be eligible to receive up to 50% of the worker's payments or up to 100% of a deceased worker's payments after the age of 62.

The maximum family limit does not apply in the case of a divorced spouse who qualifies.

There are a number of other provisions to consider depending on your specific circumstances. For instance, if a divorced spouse is eligible for social security benefits on their own record, that amount will be paid first; but if the benefit paid to the other spouse is higher, the divorced spouse may get a combination of benefits that equals the higher amount. Finally, the amount the divorced spouse receives does not change the benefits the worker and any new spouse receives.

Another good source for additional information on this issue is the [Social Security Administration website](#). I also found [this article](#) on the Kiplinger.com website which you may find helpful.

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