

Practitioners who overlook survivor benefits are said to leave money on the table.

Normally, a retiree elects a survivor benefit as a way of providing a continuing income to a spouse after the retiree's death. In this scenario, the retiree receives a smaller monthly retirement benefit during his/her lifetime so that his or her spouse receives an income for the remainder of that person's life. Once the person retires and makes this election, the election of the survivor benefit is, in most cases, irrevocable. Three key elements must be kept in mind in making this election:

1. The retiree receives a smaller monthly benefit during his/her lifetime.
2. The election of the survivor benefit is often irrevocable.
3. The survivor benefit provides the spouse with a lifetime of benefits.

For example, the husband in a divorce action retired 6 years ago at age 55, and he elected to receive his benefits in the form of a 50 percent Joint and Survivor Annuity with his wife as the beneficiary. Therefore, instead of receiving \$1,500 a month for his lifetime only, he receives \$1,000 a month for his life, and after his death, his widow receives \$500 per month (50% of the \$1,000) for the remainder of her life.

Since he is currently retired, this election is still usually irrevocable, even though they are getting divorced.

What is noteworthy from an equitable distribution perspective is this: The husband receives \$500 less per month than he could receive from the plan, and once they are divorced and living separate lives, when he dies the plan will still pay his then ex-wife \$500 a month for the rest of her life. Even though they divorcing these circumstances often cannot be changed. In an equitable distribution, there is a way to account for this lifetime payment to his former wife when dividing the marital assets.

The wife's eventual survivor benefit can be valued, and then credited as an asset to her in the negotiations. The value of the wife's survivor benefit is determined using the same methodology used to value the husband's pension. In this, the appraiser determines the amount of the survivor benefit paid to the wife. To do this, the appraiser uses life expectancy tables to estimate the husband's expected date of death as well as mortality tables to estimate the wife's projected life from that point forward. The appraiser discounts the income stream to the wife by using interest rates to bring it to present value.

In the example above, the husband is 61 years of age, and according to life expectancy tables his projected date of death is age 87. The wife is 58, so she will be 84 when he former husband dies. Therefore, the appraiser determines the present value of the wife receiving a benefit of \$500 per month starting at age 84 for the remainder of her lifetime. The value of this benefit is credited as an asset of the wife.

Taking it a step further, let's assume that the value of the husband's pension was determined to be \$150,000, and the wife's survivor benefit is valued at \$30,000. A 50/50 split of the marital estate would reduce the wife's interest in the husband's pension by \$15,000. This calculation works to the advantage of the husband.

One very important qualification must be met before this approach can be considered valid: The employee must be retired, and a survivor benefit must have been elected for the spouse. This is very important since many practitioners want to increase the value of assets held by the opposing spouse. Since survivor benefits are usually irrevocable after an employee retires, they meet all of the requirements to be considered an asset of the spouse. If the employee has not retired, then the survivor benefits have not been secured for the spouse.

Since the parties are divorcing, these benefits will not be elected for the spouse because by then the spouse will be the ex-spouse, and the likelihood of the employee making elections to benefit the ex-spouse is slim to none especially in the case of a private pension plan where a separate interest Order can be drafted. This form of Order provides a lifetime benefit an Alternate Payee negating the need for a survivor benefit. Moreover, under some plans, survivor benefits are reserved for spouses, not former spouses.

Practitioners are well advised to check with the plan administrator to make certain that the survivor benefits are irrevocable. This should be done before the benefits are appraised. About 98 per cent of all plans provide that once elected any and all survivor benefits are irrevocable. However, two very common plans that allow a party to change his or her survivorship designation after a divorce are the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

Therefore, if a client is retired, this type of analysis may be used to reduce his/her liability to his/her spouse.