

SSA/SSI DEBT COLLECTION

1. CAN DEBT COLLECTORS TAKE MY SOCIAL SECURITY, OR SSI, BENEFITS?

Usually, no. Your Social Security or Supplemental Security Income (SSI) checks generally cannot be taken or garnished by creditors collecting debts. But, there are exceptions explained below.

2. WHAT CAN BE TAKEN OUT OF MY SOCIAL SECURITY CHECK TO PAY DEBTS?

- Up to 15% of your Social Security checks can be taken each year to pay federal taxes you owe.
- Any amount over \$9,000 per year (\$750 per month) can be taken to collect federal debts other than taxes.
- Oregon law limits how much can be taken for spousal and child support. If you have a current Oregon support order, the monthly support amount can be taken. If you also owe back support, an additional 20% of the support amount will be taken. If you only owe back support, you can keep 160 times the federal minimum wage. The total amount to be taken for support can never be more than 50% of your Social Security, unless a court orders that more be taken.
- The deductions above cannot be made against your SSI checks.

- Deductions can be made from your Social Security and SSI checks to collect an overpayment of benefits.

3. CAN MY BANK TAKE MY SOCIAL SECURITY OR SSI CHECKS AFTER I HAVE DEPOSITED THEM IN MY ACCOUNT?

Yes. A court case allows banks in Oregon to take money out of your account to pay back any money you owe the bank if you have signed an agreement with the bank which gives the bank this right. The bank has this “setoff” right even if the only money in your account is from Social Security or SSI checks. For example, when you applied to get a credit card or a loan from the bank, you likely signed an agreement that if you fail to make payments, the bank can pay itself back by taking money out of your account.

4. CAN DEBT COLLECTORS OTHER THAN MY BANK TAKE MY SOCIAL SECURITY OR SSI CHECKS AFTER I HAVE DEPOSITED THEM IN MY BANK ACCOUNT?

If you owe unpaid bills for consumer debts, your creditors may sue you in court and try to get a judgment against you for the amount you owe. If they get a judgment against you, they can then try to collect that judgment by garnishing your bank account. A garnishment order issued by a court after a judgment has been entered against you directs the bank to take money from your bank account, and makes the money unavailable to you.

5. WHAT IF THE ONLY MONEY IN MY BANK ACCOUNT IS FROM SOCIAL SECURITY OR SSI?

If you deposit your Social Security or SSI checks into your bank account, those funds remain protected by law from most creditors. Such funds are “exempt” from garnishment as long as those funds are easily identifiable as separate from other funds. To make sure you can show that the only money in the account is from Social Security or SSI checks, you should not deposit other money or income into the account.

If a creditor tries to garnish your account which contains only exempt Social Security or SSI income, you must file a **Challenge to Garnishment** to protect those funds.

6. WHAT IS A CHALLENGE TO GARNISHMENT? HOW DO I FILE ONE?

A Challenge to Garnishment, sometimes called a claim of exemption, is a legal form to be filed with the court to claim the property being garnished is exempt from collection. You will receive a Challenge to Garnishment form when your bank account is garnished. You must complete the form and file it with the court as soon as possible to try to keep your money. After you file a Challenge to Garnishment, there will be a hearing in court and a judge will decide if you will be able to keep the money in your account.

However, until the court decides if the money in your account is exempt, your account will be

frozen and you can't withdraw any money or write checks on your account, and checks you have already written will bounce

7. IF THE ONLY MONEY DEPOSITED TO MY BANK ACCOUNT IS FROM SOCIAL SECURITY OR SSI CHECKS, CAN I STOP CREDITORS FROM GARNISHING MY ACCOUNT?

When any of your creditors gets a court judgment against you which you can't afford to pay, you should tell them that your only income is from Social Security or SSI and you can't afford to pay. Some creditors may then decide not to try to get a garnishment order against your bank account.

8. WHERE CAN I GET INFORMATION ON OTHER BENEFITS PROGRAMS?

For more information, call the Public Benefits Hotline (1-800-520-5292) or go to www.oregonlawhelp.org for a directory of benefits programs.

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NOTE: THIS IS INTENDED TO BE A GENERAL OVERVIEW. FOR ANSWERS TO SPECIFIC QUESTIONS, CONTACT AN ATTORNEY OR THE PUBLIC BENEFITS HOTLINE 1(800) 520-52922

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