

Consumer Facts for Older Americans

When Your Social Security Benefits Are Taken to Pay Back Money to the Federal Government

Social Security income is a lifeline for most seniors. Because it is considered so essential for survival, it has traditionally been protected from attachment by creditors. A 1996 law takes away some of this protection, but only when federal government agencies are collecting debts owed to them.

This is an important change to the law, but it is not a reason for panic. It will not apply to everyone and not all benefits can be taken. This information sheet answers some frequently asked questions about this new program.

What Types of Social Security Benefits Can Be Taken?

Social Security Retirement and Disability Benefits may be taken.

Supplemental Security Income (SSI) is specifically exempt. This means that SSI benefits cannot be taken under this law.

Can They Take My Entire Monthly Check?

No. There are two important limits:

- The first \$9,000 or \$750/month of benefits are safe.
- No matter how much money you get, the government will not take more than 15% of your benefit.

Examples:

Example 1: You receive a monthly Social Security benefit payment of \$850. The amount that is offset is the lesser of \$127.50 (15% of \$850) or \$100 (the amount by which \$850 exceeds \$750). In this example, \$100 would be offset.

Example 2: You receive a monthly Social Security benefit of \$1,250. The amount that is offset is the lesser of \$187.50 (15% of \$1,250) or \$500 (the amount by which \$1,250 exceeds \$750). In this example, the offset amount is \$187.50 (assuming the debt is \$187.50 or more).

Example 3: You receive \$700 each month from Social Security. This is less than \$750 and therefore nothing will be taken.

Can Any Creditor Go After These Benefits?

No. Only federal agencies can use this program to collect debts owed to these agencies. This includes student loan debt, food stamp overpayments, and other money owed to the government. Private creditors such as credit card companies cannot use this program. The

I.R.S. can also take Social Security benefits to collect tax debts. The rules are different for this program. Not all of the same protections apply. You should contact a tax professional for more information.

Is There Anything I Can Do to Fight Back?

Yes. You are supposed to get a number of notices warning you that your benefits are going to be taken. These are called notices of offset. You have the right to a hearing with the agency that is collecting the money. For example, if you owe money on a student loan, your hearing will be with the Department of Education. You have the right to challenge the offset including the right to request a reduction of the amount to be offset. You also have the right to set up a repayment plan to avoid having your benefits taken.

After you get notices from the agency that is collecting the money, you will receive a notice from the Department of the Treasury Financial Management Service. This is the agency that will actually take the benefits. Their number is (800) 304-3107. For more information go to <http://www.fms.treas.gov/debt/top.html>

Student Loan Rights

You may have other rights that will allow you to cancel your student loan debt or sign up for an affordable payment plan. You should get legal help to find out more about these options. You can also learn a lot by looking at the Department of Education web site, <http://www.ed.gov> or by calling the Department's Student Aid Office at 1-800-4FED-AID. In addition, there is a student loan ombudsman office that will help you once you have tried other options. The ombudsman's web site is <http://www.fsahelp.ed.gov>. The toll-free phone number is 877-557-2575.

Advocates seeking more information can call the National Consumer Law Center at (617) 542-8010.

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