



# The Social Security Levy

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- Licensed to practice in Florida since 2012
- Practiced Tax Controversy from 2012-2020 for one of the largest national tax resolution companies.
- Resolved millions in tax debts, logged thousands of call hours with IRS collections personnel, and worked with hundreds of clients to resolve their tax controversy issues.
- Subject matter expert in tax issues facing small businesses, particularly payroll tax debts, with years of practical experience in achieving excellent results for my client.



# Acronyms Used in Presentation



ACRONYM	MEANING	CONTEXT
BFS	Bureau of Fiscal Services	The Bureau of the Fiscal Service manages all federal payments and collections, and provides government-wide accounting and reporting services.
CDP	Collection Due Process	IRS must provide taxpayers an opportunity to dispute the debt prior to enforcement action commencing. A timely filed CDP hearing preserve rights to bring the dispute before the Tax Court. Time Sensitive!
CNC	Currently Non Collectible Status	\$0 month resolution offered by the IRS. Have to prove that income is exceeded by the reasonable & necessary living expenses of the taxpayer. NOT a forgiveness program, the taxpayer still owes the balance due.
CSED	Collection Statute Expiration Date	The IRS has a limited time to collect a tax debt, starting 10 years from the date of assessment (plus tolling events). The CSED is the date the debt is no longer legally enforceable.
NSIA	Non Streamlined Installment Agreement	NSIA is considered when the taxpayer cannot qualify for a SIA. The agreement must be fully paid prior to the CSED. A Collection Information Statement is not required for Individual balances under \$250k assessed. A NFTL determination is required. See IRM 5.19.1.6.4(12)

# Acronyms Used in Presentation



ACRONYM	MEANING	CONTEXT
OASDI	Old-Age, Survivors, and Disability Insurance	OASDI, commonly known as Social Security, is the Old-Age, Survivors and Disability Insurance program. These benefits go to survivors of insured workers, retired or disabled workers and their dependents.
PPIA	Partial Pay Installment Agreement	An Installment Agreement (IA) which by its current terms is incapable of full paying the taxes within the CSEDs.
SIA	Streamlined Installment Agreement	Installment Agreement offered by the IRS for Individuals with assessed balances under \$50k which generally prevents filing of an NFTL. See IRM 5.14.5.2
SSA	Social Security Administration	The United States Social Security Administration (SSA)[2] is an independent agency of the U.S. federal government that administers Social Security, a social insurance program consisting of retirement, disability and survivor benefits.
SSI	Supplemental Security Income	Supplemental Security Income (SSI) is a federal program in the United States that provides additional income for older adults and people with disabilities that have little to no income.
TOP	Treasury Offset Program	The Treasury Offset Program (TOP) collects past-due (delinquent) debts (for example, child support payments) that people owe to state and federal agencies.

# Types of Social Security Benefits

- ▶ Old-Age, Survivors, and Disability Insurance (OASDI)
  - ❑ Retirement
  - ❑ Survivors
  - ❑ Disability
- ▶ Supplemental Security Income (SSI)
- ▶ See IRM 5.11.6.2.1

# Old-Age, Survivors, and Disability Insurance

- ▶ Reported on SSA-1099
- ▶ Old-Age, Survivors, and Disability Insurance (OASDI) is based on social security taxes during a person's working years.
- ▶ OASDI payments are not based on need, and they can be levied.

# Supplemental Security Income

- ▶ NOT reported on SSA-1099
- ▶ Supplemental Security Income (SSI) payments are for elderly, blind, or disabled persons.
- ▶ IRC 6334 (a)(11) exempts from levy certain public assistance payments, including supplemental security income under XVI of the Social Security Act.

# Two Levy Types

- ▶ Paper Levy issued on 668-W.
  - ❑ Manual levy (not limited to 15%) issued by an IRS collection employee.
- ▶ Federal Payment Levy Program
  - ❑ Systemic 15% levy on eligible benefits.
- ▶ Possible for both types to be in place at the same time, though pretty rare.



# IRS Form 668-W

The taxpayer is allowed to claim the exemption from levy per IRC 6334(a)(9) and to provide SSA with their Statement of Exemptions and Filing Status.

Kind of Tax	Tax Period Ended	Unpaid Balance of Assessment	Statutory Additions	Total
1040A	12-31-2003	\$ 6,845.73	\$ 1,251.08	\$ 8,096.81
1040A	12-31-2004	\$ 17,295.77	\$ 2,732.26	\$ 20,028.03
1040A	12-31-2005	\$ 13,381.30	\$ 2,095.42	\$ 15,476.72
1040A	12-31-2006	\$ 13,731.55	\$ 2,110.96	\$ 15,842.51
			<b>Total Amount Due</b>	<b>\$ 59,444.07</b>

# Federal Payment Levy Program (FPLP)

- ▶ The Federal Payment Levy Program (FPLP) is an automated levy program the IRS has implemented with the Department of the Treasury, Bureau of the Fiscal Service (BFS) since 2000.
  - Essentially, the reverse of the Treasury Offset Program (TOP).
- ▶ IRS provides a weekly file of delinquent taxpayers to BFS. BFS matches the delinquent taxpayer file against federal payment files.

# Payments Subject to FPLP

Civil Service or Federal employee retirement pension annuities - 15%

Treasury disbursed Federal civilian agency (non-Defense) contractor/vendor payments - 100%

Federal employee travel payments - 15%

Federal (civilian) employee salaries - 15%

Social Security Administration (SSA) benefit payments under Title II Act - 15%

Department of Defense (DoD) contractor/vendor payments - 100%

Army Corp of Engineers (ACOE) and the United States Postal Service (USPS) contractor/vendor/supplier payments. - 100%

Centers for Medicare and Medicaid Services provider and supplier payments. - 100%

# Limitations on FPLP

- ▶ Lump sum death benefits and benefits paid to children are not included in the FPLP.
- ▶ Supplemental Security Income (SSI) payments and payments with partial withholding to repay a debt owed to Social Security are not levied through the FPLP.
- ▶ FPLP excludes certain delinquent taxpayers who receive social security payments if their income falls at or below certain established levels.

# NOT Community Property

- ▶ IRM 5.11.6.2.1 (05-26-2021) Social Security
- ▶ (4) NOTE: Social Security benefits are not community property and a levy can't be served on the nonliable spouse's social security payment under the theory that it is community property. See IRM 25.18.1.2.28(1), Federal Preemption of State Community Property Characterization.

# Social Security Levies Limited

- ▶ “If you have any unpaid Federal taxes, the Internal Revenue Service can levy your Social Security benefits. Your benefits can also be garnished in order to collect unpaid child support and or alimony. Your benefits may also be garnished in response to Court Ordered Victims Restitution. SSI payments cannot be levied or garnished. Treasury's Financial Management Service can also offset, or reduce, your Social Security benefits to collect delinquent debts owed to other Federal agencies, such as student loans owed to the Department of Education.”

Social Security Handbook 129.2 Can Your Social Security Benefits Be Levied Or Garnished?



# Initiating the Levy

# Eligible for Collections

- ▶ Tax period(s) in question must have been issued a Final Notice of Intent to Levy with Right to a Collection Due Process (CDP) Hearing;
- ▶ The time to elect a timely hearing must have passed OR the hearing has been resolved; AND
- ▶ Another status is not present which prevents collections.



# Final Notice of Intent to Levy

- ▶ 26 U.S. Code § 6330 - Notice and opportunity for hearing before levy
- ▶ Have 30 days, starting the day after the notice is issued, to elect for a timely CDP hearing.

LTR  
1058

LRT 11

CP90

# IRS Notice CP 90

CP90 is generally used prior to a Social Security levy being initiated under the Federal Payment Levy Program (FPLP).




Department of the Treasury  
Internal Revenue Service  
Philadelphia, PA 19255-0010

s018999546711s  
JAMES & KAREN Q. HINDS  
22 BOULDER STREET  
HANSON, CT 00000-7253

Intent to seize your assets and notice of your right to a hearing  
**Amount due immediately: \$5,947.81**


We haven't received full payment despite sending you several notices about your unpaid federal taxes. The IRS may seize (levy) your property. However, you can appeal the proposed seizure (levy) of your assets by requesting a Collection Due Process hearing (Internal Revenue Code Section 6330) by **February 22, 2017**.



Notice	CP90
Notice date	January 23, 2017
Social Security number	999-99-9999
To contact us	Phone 1-800-829-7650
Your Caller ID	9999

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### Billing Summary



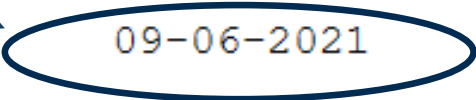
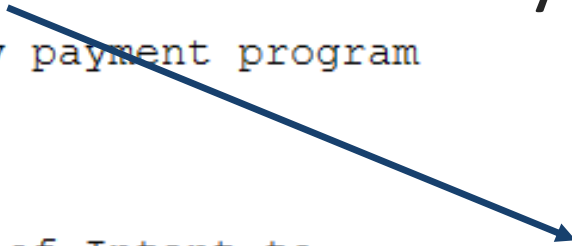
Amount you owed	\$5,947.81
Additional failure-to-pay penalty	0.00
Additional interest charges	0.00
<b>Amount due immediately</b>	<b>\$5,947.81</b>





# Had until October 6, 2021 to elect a Timely CDP Hearing

971	Account match for federal levy payment program	09-06-2021
971	Notice issued CP 0090	09-06-2021
971	Collection due process Notice of Intent to Levy -- issued	09-06-2021
971	Collection due process Notice of Intent to Levy -- issued	09-06-2021
971	First Levy Issued on Module	11-01-2021
971	Notice issued CP 0091	11-15-2021
971	Final notice before levy on social security benefits	11-15-2021



# Statuses Preventing Levy

Pending OR  
Established  
Installment  
Agreement

Pending Offer in  
Compromise

Established Hardship  
(CNC)

Bankruptcy/Litigation



Active CDP Hearing  
Request

Pending Innocent  
Spouse

# Example - Account Transcript

971	Account match for federal levy payment program	08-08-2016
971	Notice issued [REDACTED]	08-08-2016
971	Collection due process Notice of Intent to Levy -- issued	08-08-2016
971	Collection due process Notice of Intent to Levy -- issued	08-08-2016
971	Collection due process Notice of Intent to Levy -- return receipt signed	08-08-2016
✓ 971	Installment agreement established [REDACTED]	08-11-2016
971	Tax period blocked from automated levy program	05-20-2019

# Example - Account Transcript


	530	Balance due account currently not collectible - <u>not due to hardship</u>	→	02-16-2021
	971	Notice issued CP 071C		04-12-2021
	196	Interest charged for late payment	20211205	04-12-2021
	276	Penalty for late payment of tax	20211205	04-12-2021
	971	Account match for federal levy payment program		12-27-2021
	971	Notice issued	→	12-27-2021
	971	Collection due process Notice of Intent to Levy -- issued		12-27-2021
	971	Notice issued CP 0091		03-07-2022
	971	Final notice before levy on social security benefits		03-07-2022
	971	Collection due process request received timely	→	01-18-2022
	971	Collection due process levy (hearing) request or levy and lien (hearing) request received		01-18-2022

# IRS Notice CP 91

Usually sent as a follow up after the CP90 once the FPLP Social Security levy has been initiated.



s018999546711s  
JAMES & KAREN Q. HINDS  
22 BOULDER STREET  
HANSON, CT 00000-7253



Notice	CP91
Notice date	January 23, 2017
Social Security number	999-99-9999
To contact us	Phone 1-800-829-7650
Your Caller ID	9999
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Intent to seize up to 15 % of your Social Security benefits

**Amount due immediately: \$0.00**

We haven't received full payment despite sending you several notices about your unpaid federal taxes. We will seize (levy) up to 15% of the Social Security benefits you receive in order to pay your unpaid federal taxes until they are paid in full. (Internal Revenue Code section 6331(h))

We have identified the following Social Security account information:

Social Security Claim Account Number:  
123456789

Beneficiary's Own Account Number:  
123456789

Don't contact the Social Security Administration. If you have any questions, please contact us at 1-800-829-7650.

### Billing Summary

Amount you owed	\$0.00
Additional failure-to-pay-penalty	0.00
Additional interest charges	0.00
<b>Amount due immediately</b>	<b>\$0.00</b>



Continued on back...










971	Account match for federal levy payment program	09-06-2021
971	Notice issued [redacted] →	09-06-2021
971	Collection due process Notice of Intent to Levy -- issued	09-06-2021
971	Collection due process Notice of Intent to Levy -- issued	09-06-2021
971	First Levy Issued on Module	11-01-2021
971	Notice issued [redacted] →	11-15-2021
971	Final notice before levy on social security benefits	11-15-2021

} 70 Days



# Recognizing a Social Security Levy

971	Account match for federal levy payment program		01-13-2020		\$0.00
670	Payment		12-24-2019		-\$360.45
960	Appointed	<p>➤ Marked Payment instead of Levy HOWEVER Installment Agreements are Established with Round Numbers. i.e. \$365 vs \$365.25</p> <p>➤ Figure is different in each calendar year – COLA increase to benefits means increase in 15% levy amount.</p>	01-08-2020		\$0.00
670	Payment		01-22-2020		-\$365.25
670	Payment		02-26-2020		-\$365.25
670	Payment		03-25-2020		-\$365.25
530	Balance di		07-13-2021		\$0.00
670	Payment		07-28-2021		-\$369.60
670	Payment		08-25-2021		-\$369.60
670	Payment		09-22-2021		-\$369.60

# COVID Impacts

- ▶ In March of 2020 the IRS announced a pause of Social Security Levies under the Federal Payment Levy Program in response to COVID.
  - ❑ Restarted (for some taxpayers) in the 3<sup>rd</sup> quarter of 2021.
- ▶ The IRS has paused MOST collections notices since early 2022, including Final Notices of Intent to Levy.
  - ❑ CP90 Notices are included in this “pause.”

670 Payment		5/17/2017	-89.18
670 Payment		6/21/2017	-294.9
670 Payment		7/19/2017	-294.9
670 Payment		8/16/2017	-294.9
670 Payment		12/19/2018	-300.3
670 Payment		1/16/2019	-309
670 Payment		2/20/2019	-309
670 Payment		3/20/2019	-309
670 Payment		4/17/2019	-309
670 Payment		5/15/2019	-309
670 Payment		6/19/2019	-309
670 Payment		7/17/2019	-309
670 Payment		8/21/2019	-309
670 Payment		9/18/2019	-309
670 Payment		10/16/2019	-309
670 Payment		11/20/2019	-309
670 Payment		12/18/2019	-309
670 Payment		1/15/2020	-312.9
670 Payment		2/19/2020	-312.9
670 Payment		3/18/2020	-312.9
670 Payment		7/21/2021	-316.65
670 Payment		8/18/2021	-316.65
670 Payment		9/15/2021	-316.65
670 Payment		10/20/2021	-316.65
670 Payment		11/17/2021	-316.65
670 Payment		12/15/2021	-316.65
670 Payment		1/19/2022	-333.45

16 MONTH GAP

Before Covid

After Covid



# Stopping the Levy

# Criteria for Levy Release

Installment  
Agreement

Economic  
Hardship

Liability is  
Paid in Full

Liability is  
No Longer  
Enforceable\*

Wrongful or  
Erroneous  
Levy

# Installment Agreement Options



IA Type	<u>ASSESSED</u> Debt Limit	Payment Terms	Collection Information Statement (CIS) Required	Notice of Federal Tax Lien (NFTL)
Streamline Installment Agreement (SIA) IRM 5.14.5.2	\$50,000	Full pay assessed balance within 72 months OR before CSEDs expire, whichever is sooner.	NO	NO ***MAY file if taxpayer previously defaulted a SIA.
Non Streamline Installment Agreement (NSIA) IRM 5.19.1.6.4(12)	\$250,000	Full pay balance due prior to expiration of the CSEDs.	NO ***Required for Levy Release & Debts Certified as Seriously Delinquent.	YES
Partial Pay Installment Agreement (PPIA) IRM 5.14.2	\$250,000	Final monthly payment will be based on the CIS (Form 433).	YES	YES



\*\*\*This chart details the limits of Automated Collections System (ACS) in establishing IAs as set forth and published in the IRM as it relates to individual tax debt

# Pursuing Hardship aka CNC

- ▶ Provide Collection Information Statement (CIS) showing it would cause taxpayer economic hardship to make Installment Agreement payments.
- ▶ Alternatively, can request without a CIS when -
  - ❑ Terminal Illness or Excessive Medical Bills
  - ❑ Taxpayer's ONLY source of income is Social Security
  - ❑ See IRM 5.16.1.2.9(6) for additional criteria

# Release vs Block

- ▶ Paper Levies are RELEASED via a form 668-D which is transmitted to the garnishment department.
- ▶ Federal Payment Levy Program (FPLP) levies are BLOCKED by inputting a transaction code on the levied tax periods.



# Example 668-D

668-D would be manually generated to release a paper levy on Social Security Benefits.

Has to be transmitted by the IRS NOT the taxpayer.

Form <b>668-D</b> (Rev. April 2012)	Department of the Treasury — Internal Revenue Service <b>Release of Levy/Release of Property from Levy</b>
To ██████████ ██████████ ██████████ ██████████	Taxpayer(s)
	Identifying Number(s)
A notice of levy was served on you and demand was made for the surrender of:	
<input checked="" type="checkbox"/> all property, rights to property, money, credits and bank deposits of the taxpayer(s) named above, except as provided in 6332(c) of the Internal Revenue Code—"Special Rule For Banks." See the back of this form regarding this exception.	
<input type="checkbox"/> wages, salary and other income, now owed to or becoming payable to the taxpayer(s) named above.	
<b>The box checked below applies to the levy we served on you.</b>	
<b>Release of Levy</b>	
<input checked="" type="checkbox"/> Under the provisions of Internal Revenue Code section 6343, all property, rights to property, money, credits, and bank deposits of the taxpayer(s) named above are released from the levy.	
<input type="checkbox"/> Under the provisions of Internal Revenue Code section 6343, all wages, salary and other income now owed to or becoming payable to the taxpayer(s) named above are released from the levy.	

# Blocking the FPLP Levy

Federal Payment	Payment Date	Processing Cutoff Date
OPM (Federal retirement income)	1st business date of each month	2 weeks before payment date
SSA (OASDI) benefits	3rd business date of each month; 2nd, 3rd & 4th Wednesday of each month	6 business days before the payment date
RRB benefits (retirement annuity except Tier 2)	1st business date of each month	5 business days before the payment date
Federal employee salaries	Biweekly	14 days before payment date
Defense and civilian agency contractor/vendor/supplier payments; Federal employee travel payments; "Miscellaneous" payments; CMS Medicare provider payments	Daily	Cutoff dates vary; payments may be processed up to 30 days prior to payment date

# When Levy Continues After Block

- ▶ Step 1. Contact IRS ASAP to advise of erroneous levy and ensure that the proper transaction codes are on the account.
- ▶ Step 2. Request manager conference to seek refund of levied funds.
- ▶ Step 3. File form 9423 Collection Appeal (CAP) request.
  - Per a NOTE on IRM 8.24.1.3(5) this meets the administrative claim requirements under Treasury Reg. 301.6343-3(h).

# Surviving the CSED

- ▶ Paper Levy **WILL** Survive the Collection Statute Expiration (CSED).
  - See IRM 5.11.6.2.1(6)
  
- ▶ Levies under the Federal Payment Levy Program **SHOULD** be released prior to expiration of the Collection Statute Expiration (CSED).
  - See IRM 5.11.7.2.2.2(2)

# Conclusion

- ▶ The pandemic accelerated retirement rates within the United States.
- ▶ As the IRS restarts the collections apparatus expect to see more CP90s being issued and more Social Security levies being initiated by the IRS.