

IRM PROCEDURAL UPDATE

DATE: 01/04/2017

NUMBER: sbse-05-0117-0030

SUBJECT: Social Security

AFFECTED IRM(s)/SUBSECTION(s): 5.11.6

CHANGE(s):

IRM 5.11.6.1(1) is revised to clarify use of discretion and pre-levy considerations for retirement income levies.

1. Use discretion in determining if retirement income should be levied. For more information on pre-levy consideration, see IRM 5.11.1.3.1, **Pre-Levy Considerations**. See IRM 1.2.44.4, Delegation Order 5-3 (Rev-1), which outlines the authority to levy on property in the hands of a third party (not to include Levy Form 668-B, Levy).

IRM 5.11.6.1.1(3) is added to clarify use of discretion and pre-levy considerations for SSA levies.

IRM 5.11.6.1.1(4) is revised to clarify allowance of exemption for SSA levies.

IRM 5.11.6.1.1(5) is revised to clarify change of benefits on levy funds.

3. Use discretion in determining whether a levy on Social Security benefits is appropriate under the circumstances. Generally if other viable levy sources are available these sources should be considered prior to a levy on Social Security benefits. For more information on pre-levy considerations, see IRM 5.11.1.3.1, Pre-Levy Considerations.

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 25.18.1.2.29(1), Federal Preemption of State Community Property Characterization*.

4. Send Part 1 of Form 668–W(ICS) or 668-W(c)(DO) to the SSA office that issued the taxpayer's social security number. 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. See the Servicewide Electronic Research Program (SERP), Who/Where, Levy Source Information for SSA

office addresses <https://acsweb.enterprise.irs.gov/nlsweb/pages/nl08.xhtml>. Include Notice 484, Instructions to Employer with Centralized Payroll System for Processing Statement of Exemptions and Filing Status. Send the other parts of the levy to the taxpayer with Notice 483, Instructions to Employee Paid Through a Centralized Payroll System for Submitting Statement of Exemptions and Filing Status. Make appropriate changes to Notice 483 and Notice 484.

5. Once a levy is served, SSA will continue honoring it, until the levy is released. However, the taxpayer's eligibility for benefits could change. A change in benefits might stop the levy proceeds. If this happens, SSA will notify the office that issued the levy not to expect more payments. However, SSA is not allowed to explain why because privacy laws restrict to whom SSA can disclose benefit information.

EXAMPLE: The taxpayer may get full benefits when the levy is served. Later, the person starts working. This may reduce the benefits to less than the exempt amount, so there will be no levy proceeds. If the person stops working and gets full benefits again, SSA will not automatically start sending levy payments. A new levy must be served.

NOTE: RSDI (or OASDI) payments are alternatively levied at 15 percent via the FPLP. Per IRM 5.11.7.2.2.2(2), *Exclusions* the FPLP will systemically release the FPLP levy prior to the expiration of the statutory period for collection; however, a paper levy will continue to be honored until a levy release is issued.

NOTE: Beginning January, 2007, SSA submits paper levy payments to IRS through the Electronic Funds Transfer Payment System (EFTPS). These payments post to IDRS as TC 670 designated payment code (DPC) 05 but are identifiable by the presence and content of an EFT-TRACE-NUM field. All SSA levy payments have values of "49" in the third and fourth positions of the EFT-TRACE-NUM.