

ID: CCA\_2019061011065052

UILC: 6331.00-00

Number: **201927019**

Release Date: 7/5/2019

---

**From:** [REDACTED]

**Sent:** Monday, June 10, 2019 11:06:50 AM

**To:** [REDACTED]

**Cc:**

**Bcc:**

**Subject:** RE: levy on 401k

Good morning.

Following up on the voice message from last week.

As I mentioned in the voice message, it is a mischaracterization of the CCA cited and of the Service's policies/procedures to state that the Service can only levy distributions as they are made. The Legal Reference Guide sets out the Service's position on levying on both retirement income and the corpus of retirement plans. See IRM 5.17.3.10.19. The Service's procedures for levying on retirement income are found in IRM 5.11.6.2 and, relevant in your case, procedures for levying on funds in pension and retirement plans—including 401(k)s—are found in IRM 5.11.6.3.

The Service can levy on funds accumulated in a 401(k) in accordance with the procedures and policies set out in IRM 5.11.6.3. And, as the IRM states, the early withdrawal penalty would not apply, per section 72(t)(2).