

Limitations on Levies

SOURCE: Sections 70.241 through 70.245 added by T.D. ATF-301, 55 FR 47646, Nov. 14, 1990, unless otherwise noted.

§ 70.241 Property exempt from levy.

(a) *Enumeration.* There shall be exempt from levy:

(1) *Wearing apparel and school books.* Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of the taxpayer's family. Expensive items of wearing apparel, such as furs, which are luxuries and are not necessary for the taxpayer or for members of the taxpayer's family, are not exempt from levy.

(2) *Fuel, provisions, furniture, and personal effects.* If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed \$1,650 in value. For purposes of this provision, an individual who is the only remaining member of a family and who lives alone is not the head of a family.

(3) *Books and tools of a trade, business or profession.* So many of the books and tools necessary for the trade, business, or profession of an individual taxpayer as do not exceed in the aggregate \$1,100 in value.

(4) *Unemployment benefits.* Any amount payable to an individual with respect to that individual's unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) *Undelivered mail.* Mail, addressed to any person, which has not been delivered to the addressee.

(6) *Certain annuity and pension payments.* Annuity or pension payments under the Railroad Retirement Act (45 U.S.C. chapter 9), benefits under the Railroad Unemployment Insurance Act (45 U.S.C. chapter 11), special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562), and

annuities based on retired or retainer pay under 10 U.S.C. chapter 73.

(7) *Workmen's compensation.* Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) *Judgments for support of minor children.* If the taxpayer is required under any type of order or decree (including an interlocutory decree or a decree of support pendente lite) of a court of competent jurisdiction, entered prior to the day of levy, to contribute to the support of such taxpayer's minor children, so much of the taxpayer's salary, wages, or other income as is necessary to comply with such order or decree. The taxpayer must establish the amount necessary to comply with the order or decree. The appropriate TTB officer is not required to release a levy until such time as that officer is satisfied that the amount to be released from levy will actually be applied in satisfaction of the support obligation. The appropriate TTB officer may make arrangements with a delinquent taxpayer to establish a specific amount of such taxpayer's salary, wage, or other income for each pay period which shall be exempt from levy. Any request for such an arrangement shall be directed to the appropriate TTB officer. Where the taxpayer has more than one source of income sufficient to satisfy the support obligation imposed by the order or decree, the amount exempt from levy may at the discretion of the appropriate TTB officer be allocated entirely to one salary, wage, or source of other income or be apportioned between the several salaries, wages, or other sources of income.

(9) *Minimum exemption for wages, salary, and other income.* Amounts payable to or received by the taxpayer as wages or salary for personal services, or as other income, to the extent provided in §§ 70.242 through 70.245 of this part.

(10) *Certain service-connected disability payments.* Any amount payable to an individual as a service-connected (within the meaning of 38 U.S.C. 101(16)) disability benefit under:

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(i) 38 U.S.C. chapter 11, subchapter II, III, IV, V, or VI, or

(ii) 38 U.S.C. chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 shall be exempt from levy.

(11) *Certain public assistance payments.* Any amount payable to an individual as a recipient of public assistance under:

(i) Title 42 U.S.C. subchapter IV (relating to aid to families with dependent children) or 42 U.S.C. subchapter XVI (relating to supplemental security income for the aged, blind, and disabled), or

(ii) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test shall be exempt from levy.

(12) *Assistance under job training partnership act.* Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*) from funds appropriated pursuant to such Act shall be exempt from levy.

(13) *Principal residence exempt in absence of certain approval or jeopardy.* Except to the extent provided in § 70.166 of this part, the principal residence of the taxpayer (within the meaning of 26 U.S.C. 1034) is exempt from levy.

(b) *Appraisal.* The TTB officer seizing property of the type described in 26 U.S.C. 6334(a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, such officer shall summon three disinterested individuals who shall make the valuation.

(c) *Other property.* No other property or rights to property are exempt from levy except the property specifically exempted by 26 U.S.C. 6334(a). No provisions of a State law may exempt property or rights to property from levy for the collection of any Federal tax. Thus, property exempt from execution under State personal or homestead exemption laws is, nevertheless, subject to levy by the United States for collection of its taxes.

(26 U.S.C. 6334)

27 CFR Ch. I (4–1–10 Edition)

§ 70.242 Wages, salary and other income.

(a) *In general.* Under 26 U.S.C. 6334(a)(9) and (d) certain amounts payable to or received by a taxpayer as wages, salary or other income are exempt from levy. This section describes the income of a taxpayer that is eligible for the exemption from levy (paragraph (b) of this section) and how exempt amounts are to be paid to the taxpayer (paragraph (c) of this section). Section 70.243 of this part describes the sum which will be exempt from levy for each of the taxpayer's payroll periods. Payroll periods are described in § 70.244 of this part. Amounts exempt from levy are determined in part by the number of persons claimed by the taxpayer as dependents. Section 70.245 of this part describes the manner in which the taxpayer is to claim any dependent exemptions and the manner in which the employer is to compute the exempt amount and pay the balance to the appropriate TTB officer.

(b) *Eligible taxpayer income.* Only wages, salary or other income payable to the taxpayer after the levy is made on the payor may be exempt from levy under 26 U.S.C. 6334 (a)(9). No amount of wages, salary or other income which is paid to the taxpayer before levy is made on the payor will be so exempt from levy.

(c) *Payment of exempt amounts to taxpayer—(1) From wages, salary or other income not subject to levy.* In the case of a taxpayer who has more than one source of wages, salary or other income, the appropriate TTB officer may elect to levy on only one or more such source while leaving other sources of salary or other income free from levy. If those wages, salary or other income which the appropriate TTB officer leaves free from levy equal or exceed the amount to which the taxpayer is entitled as an exemption from levy under 26 U.S.C. 6334(a)(9) and (d) and § 70.243 of this part (and are not otherwise exempt), then no amount of the taxpayer's wages, salary or other income on which the appropriate TTB officer elects to levy is exempt from levy. The appropriate TTB officer shall notify the employer or other person subject to levy that no amount of the taxpayer's wages, salary or other income is exempt from levy.