

§ 211.2

(d) Powers of attorney for the receipt or collection of checks or warrants or for the proceeds of checks or warrants included within the determination of the Secretary of the Treasury set forth in paragraph (a) of this section will not be recognized.

[41 FR 15847, Apr. 15, 1976, as amended at 44 FR 51568, Sept. 4, 1979; 45 FR 47678, July 16, 1980; 61 FR 41739, Aug. 12, 1996; 66 FR 63623, Dec. 10, 2001]

§ 211.2 Claims for the release of withheld checks or for the proceeds thereof.

Claims for the release of checks or warrants withheld from delivery or for the proceeds thereof, shall be filed with the administrative agency which would have originally authorized such issuance, e.g., claims arising out of checks or warrants representing payments under laws administered by the Department of Veterans Affairs shall be filed with the Secretary of Veterans Affairs, Department of Veterans Affairs, Washington, DC 20420.

[61 FR 41739, Aug. 12, 1996]

§ 211.3 Exceptions.

The regulations of this part do not apply to payments to foreign governments, nor to checks or warrants issued in payment of salaries or wages, or for goods or services purchased by the Government of the United States in foreign countries, unless such payments are subject to the Foreign Funds Control Regulations (31 CFR part 520), the Foreign Assets Control Regulations (31 CFR part 500), the Cuban Assets Control Regulations (31 CFR part 515), or the Iranian Assets Control Regulations (31 CFR part 535).

[45 FR 47678, July 16, 1980]

§ 211.4 Implementing instructions.

Implementing instructions will be issued in Part IV, "Disbursing," of the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies.

[41 FR 15847, Apr. 15, 1976]

31 CFR Ch. II (7-1-25 Edition)

PART 212—GARNISHMENT OF ACCOUNTS CONTAINING FEDERAL BENEFIT PAYMENTS

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APPENDIX A TO PART 212—MODEL NOTICE TO ACCOUNT HOLDER

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APPENDIX C TO PART 212—EXAMPLES OF THE LOOKBACK PERIOD AND PROTECTED AMOUNT

AUTHORITY: 5 U.S.C. 8346; 5 U.S.C. 8470; 5 U.S.C. 1103; 31 U.S.C. 321; 31 U.S.C. 3321; 31 U.S.C. 3332; 38 U.S.C. 5301(a); 38 U.S.C. 501(a); 42 U.S.C. 405(a); 42 U.S.C. 407; 42 U.S.C. 659; 42 U.S.C. 1383(d)(1); 45 U.S.C. 231f(b); 45 U.S.C. 231m; 45 U.S.C. 352(e); 45 U.S.C. 362(l).

SOURCE: 76 FR 9955, Feb. 23, 2011, unless otherwise noted.

§ 212.1 Purpose.

The purpose of this part is to implement statutory provisions that protect Federal benefits from garnishment by establishing procedures that a financial institution must follow when served a garnishment order against an account holder into whose account a Federal benefit payment has been directly deposited.

§ 212.2 Scope.

This part applies to:

- (a) *Entities*. All financial institutions, as defined in § 212.3.
- (b) *Funds*. Federal benefit payments protected from garnishment pursuant to the following authorities:
 - (1) SSA benefit payments protected under 42 U.S.C. 407 and 42 U.S.C. 1383(d)(1);
 - (2) VA benefit payments protected under 38 U.S.C. 5301(a);
 - (3) RRB benefit payments protected under 45 U.S.C. 231m(a) and 45 U.S.C. 352(e); and

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(4) OPM benefit payments protected under 5 U.S.C. 8346 and 5 U.S.C. 8470.

§ 212.3 Definitions.

For the purposes of this part, the following definitions apply.

Account means an account, including a master account or sub account, at a financial institution and to which an electronic payment may be directly routed.

Account holder means a natural person against whom a garnishment order is issued and whose name appears in a financial institution's records as the direct or beneficial owner of an account.

Account review means the process of examining deposits in an account to determine if a benefit agency has deposited a benefit payment into the account during the lookback period.

Benefit agency means the Social Security Administration (SSA), the Department of Veterans Affairs (VA), the Office of Personnel Management (OPM), or the Railroad Retirement Board (RRB).

Benefit payment means a Federal benefit payment referred to in § 212.2(b) paid by direct deposit to an account with the character "XX" encoded in positions 54 and 55 of the Company Entry Description field and the number "2" encoded in the Originator Status Code field of the Batch Header Record of the direct deposit entry.

Federal banking agency means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration.

Financial institution means a bank, savings association, credit union, or other entity chartered under Federal or State law to engage in the business of banking.

Freeze or account freeze means an action by a financial institution to seize, withhold, or preserve funds, or to otherwise prevent an account holder from drawing on or transacting against funds in an account, in response to a garnishment order.

Garnish or garnishment means execution, levy, attachment, garnishment, or other legal process.

Garnishment fee means any service or legal processing fee, charged by a financial institution to an account holder, for processing a garnishment order or any associated withholding or release of funds.

Garnishment order or order means a writ, order, notice, summons, judgment, levy or similar written instruction issued by a court, a State or State agency, a municipality or municipal corporation, or a State child support enforcement agency, including a lien arising by operation of law for overdue child support or an order to freeze the assets in an account, to effect a garnishment against a debtor.

Lookback period means the two month period that begins on the date preceding the date of account review and ends on the corresponding date of the month two months earlier, or on the last date of the month two months earlier if the corresponding date does not exist. Examples illustrating the application of this definition are included in appendix C to this part.

Protected amount means the lesser of the sum of all benefit payments posted to an account between the close of business on the beginning date of the lookback period and the open of business on the ending date of the lookback period, or the balance in an account when the account review is performed. Examples illustrating the application of this definition are included in Appendix C to this part.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

State child support enforcement agency means the single and separate organizational unit in a State that has the responsibility for administering or supervising the State's plan for child and spousal support pursuant to Title IV, Part D, of the Social Security Act, 42 U.S.C. 654.

United States means:

- (1) A Federal corporation,
- (2) An agency, department, commission, board, or other entity of the United States, or