

Question: Can stimulus checks and Paycheck Protection Program (PPP) loan proceeds be garnished?

Answer:

Please be aware that State law or Executive Orders may impact how your financial institution handles garnishments. The information being provided is regarding Federal related Acts only.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act places additional restrictions on the types of reductions or offsets that are allowed. The CARES Act does not contain any provisions allowing a financial institution to disregard a garnishment order to pay child support or private creditors.

The PPP and Healthcare Enhancement Act (the "Act") does not contain an exemption from garnishment by private creditors. The Act clearly states how PPP loan proceeds are to be used by limiting the purposes for which the eligible recipient may use the funds; however, the Act does not explicitly exempt funds from being garnished, so it is unclear if the financial institution should honor a court-ordered garnishment.

Here is the statute information related to the reductions or offsets that are not allowed (red font is for clarification purposes and is not part of the statute verbiage):

SEC. 2201.2020 Recovery Rebates for Individuals.

(d) EXCEPTION FROM REDUCTION OR OFFSET.—

Any credit or refund allowed or made to any individual by reason of section 6428 of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (c) of this section shall not be—

- (1) subject to reduction or offset pursuant to section 3716 or 3720A of title 31, United States Code,
- (2) subject to reduction or offset pursuant to subsection (d) [collection of debts owed to Federal agencies], (e) [collection of past-due, legally enforceable State income tax obligations], or (f) [collection of unemployment compensation debts] of section 6402 of the Internal Revenue Code of 1986, or
- (3) reduced or offset by other assessed Federal taxes that would otherwise be subject to levy or collection.

Below are excerpts from the www.fdic.gov website in relation to garnishing of Economic Impact payments.

Frequently Asked Questions for Bank Customers Affected by Coronavirus Disease 2019 (Referred to as COVID-19) Updated 05/27/2020 (<https://www.fdic.gov/coronavirus/faq-customer.pdf>)

10. Can my Coronavirus-related payments be garnished? (05/01/2020) A: Yes. Once funds are deposited into your account, they can be used to satisfy certain garnishment orders. For example, the payments may be subject to garnishment if you are behind on child support. Some state and local jurisdictions have temporarily suspended enforcement of garnishment orders. COVID-19 related developments continue to evolve. We recommend that you monitor the IRS Economic Impact Payment website in the event they issue any new information addressing garnishment protections regarding economic impact payments.

Frequently Asked Questions for Financial Institutions Affected by the Coronavirus Disease 2019 (Referred to as COVID-19) As of May 27, 2020 (<https://www.fdic.gov/coronavirus/faq-fi.pdf>)

22. [04/23/2020] Garnishment. Are Economic Impact payments subject to garnishment? Specific exemptions apply prohibiting garnishment of economic impact funds, such as for federal garnishment orders (CARES Act), certain federal benefits payments, certain unemployment benefits (state law), and

student loan debt (CARES Act). Absent additional guidance or clarification from the U.S. Department of Treasury, Economic Impact payments may otherwise be garnished in accordance with garnishment orders currently in force. For example, payments may be garnished to provide child support pursuant to a court order. COVID-19 related developments continue to evolve. We recommend that you monitor the U.S. Treasury Department's website in the event it issues any new information addressing garnishment protections regarding economic impact payments. Some states and local jurisdictions have suspended enforcement of certain garnishment orders, and banks are encouraged to monitor developments from local and state jurisdictions.