

Anti-Garnishment Letter to Protect Social Security



What is an anti-garnishment letter?

An anti-garnishment letter tells your bank that creditors should not take money out of your account without your permission. It is used when you have unpaid debts, and creditors have sued you or are threatening to sue you.

Information Not Legal Advice

This pamphlet is for information only and is not a substitute for the advice of an attorney.

What is garnishment?

Garnishment is a way for a creditor to collect an unpaid debt. A person that owes someone money is called a debtor, and the person or business that is owed money is called a creditor. If a debtor cannot pay a debt, the creditor can sue the debtor in court. If the creditor wins the lawsuit, the creditor is given a judgment, that is a document signed by a judge that says how much money the debtor owes the creditor. After a creditor has sued a debtor in court and has received a judgment, the creditor can request that the debtor's bank account be garnished. If this happens, the bank must send money from the account to the creditor. However, some debtors' accounts are protected from garnishment by law. In other words, sometimes creditors are not allowed to garnish a debtor's bank account.

How can I tell if my account can be garnished?

Some property cannot legally be taken by creditors to pay a debt. Property that cannot be legally taken to pay a debt is called "exempt." If your bank account only includes income that is exempt, then your account cannot be garnished. Your Social Security is exempt. So, if the only income going into your bank account is your Social Security check, then most creditors cannot garnish it.

If your only monthly income is Social Security, it would be wise to send an anti-garnishment letter to your bank. If your Social Security is electronically deposited into your bank account, then the bank should automatically look at what exempted amount was deposited within the past 2 months and allow you, the account holder, full access to that amount. Even if the exempt funds are mixed with other funds in the bank account, the bank has the responsibility to protect the full amount that is exempt. Also, it does not make a difference whether there is a co-owner on the account. However, it is best to keep your Social Security in an account by itself.

Are there creditors that can garnish my Social Security?

Yes. Your Social Security can be garnished to pay unpaid child support, some kinds of unpaid taxes, some unpaid student loans, and money owed to the federal government.

How do I use the anti-garnishment letter?

Fill in the name and address of your bank. Fill in the account number of the bank account that only has exempt money in it. Date and sign the letter.

Send the letter by certified mail, return receipt requested.

Or, hand deliver it so that you can prove when the bank received your letter. Be sure to keep a copy of the letter for your records.

Your Social Security can be garnished to pay unpaid child support, student loans, and other money owed to the federal government.

For more information...

Texas Law Help has useful information on many areas of the law. Go to www.texaslawhelp.org.

Legal Hotline for Texans: (800) 622-2520

Call our attorney-staffed legal hotline. Advice is free for Texans 60 and over or for anyone eligible for Medicare.

My name (printed): _____

My street address: _____

City: _____, Texas Zip: _____

TO:

Bank Name:

Street address of bank:

City: _____, Texas Zip: _____

Regarding: My account number(s): _____

To Whom It May Concern:

The funds in the above account(s) are entirely protected by law from garnishment, attachment, or other seizure attempts by ordinary creditors. Creditors other than the federal government collecting taxes, or dependents collecting court-ordered support, are **not** entitled to **any** funds from the above account(s). Please mark your records accordingly, in case you should receive process or other papers demanding, in any way, any portion of the above account(s).

Thank you.

Very truly yours,

My signature:

Date signed: _____