



Just the Facts

Regulations and Tips for BPA&O and PABSS Staff by Ray Cebula

Title: Tax Refund Offset

In certain circumstances, the Social Security Administration (SSA) can recover Social Security Disability Income (SSDI) and Supplemental Security Income (SSI) overpayments by intercepting the overpaid individual's federal income tax fund. 20 C.F.R. 404.520–.526, 416.580–.586; POMS GN 02201.030–.031; POMS SI 02220.012. This process is called Tax Refund Offset or TRO.

SSA may not use this method of collecting an overpayment if there are any appeals pending on the overpayment or on a waiver of the overpayment. If the overpaid individual is making payments of the overpayment, or is a current recipient, SSA may not use tax refund offset.

Before intercepting the tax refund, SSA must determine that the overpayment debt is past due, legally enforceable and eligible for TRO. 20 C.F.R. 404.520, 416.580(b). A past due, debt is one for which SSA has sent a notice of overpayment and proceeded through a full round of collection attempts. The debt is legally enforceable if SSA has assessed the overpayment debt to the receiving party and has made a final determination on the debt. Finally, the debt is eligible for TRO only if SSA takes action to refer the debt to the Internal Revenue Services (IRS) within 10 years of the debt's accruing.

SSA must send the overpaid individual a 60 day advance notice. 20 C.F.R. 404.521, 416.581. The notice must contain:

- (A) the amount of the overpayment,
- (B) a statement indicating that TRO will begin in 60 unless the individual acts within that time,
- (C) a statement concerning waiver opportunities and standards,
- (D) a statement concerning the opportunity to present evidence to SSA that the debt is not past due or legally enforceable and,
- (E) a statement indicating that the individual has the right to review SSA records concerning the overpayment.

If action is not taken by the individual within the 60 day period provided by the notice, SSA will refer the debt to the IRS for TRO. The individual's tax refund will be "scooped" and sent directly to SSA. SSA will then issue a notice concerning the amount recouped and the new balance. TRO will remain in place until the debt is completely recouped even if a waiver is filed after implementation. 20 C.F.R. 404.526, 416.586.

So, what does it mean?

How this regulation applies to you.

When an overpaid individual receives a TRO notice instead of her expected tax refund it is likely that she will make contact with her Benefits Planner and/or PABSS advocate.

While implementation of the TRO is generally proper, it is important for the BPAO and/or PABSS staff to help ensure that advance notice was received and assist in securing reimbursement of the tax refund in the event that process were not followed.

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