

Frequently Asked Questions about Taxes and Social Security Disability Benefit Programs

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QUESTION: I'm receiving services from my local Work Incentives Planning and Assistance (WIPA) project – can my CWIC help me with tax issues related to my disability benefits?

Your CWIC can offer you some very general information about certain tax issues related to Social Security Disability benefits, but the assistance provided will be extremely limited. CWICs are not qualified tax professionals and are not trained to assist with tax issues – even those related to Social Security disability benefits. Your CWIC will probably refer you to either the IRS or a local tax professional if you have questions requiring a response beyond the information contained in this document.

QUESTION: Are my disability benefits taxable?

Well, that depends on which benefits you get and how much your total income is. If you receive Supplemental Security Income (SSI), you will owe no Federal or State taxes on this benefit. If you have other forms of income in addition to your SSI (such as wages) you may owe taxes on that income.

If you receive a Title II Disability benefit (SSDI, CDB or DWB), you may have to pay taxes on your benefits, depending on how much your total income is. Your total income includes your Social Security benefits and any other income you received such as wages, interest income, rental income, etc. Social Security reports that about one-third of their current beneficiaries pay taxes on their disability benefits. Here are the situations in which taxes may be due:

- If you file a federal tax return as an “individual” and your total income is more than \$25,000, you may have to pay taxes on your benefits.
- If you file a joint return, you may have to pay taxes on your benefits if you and your spouse have a combined income that is more than \$32,000.
- If you are married and file a separate return, you will probably pay taxes on your benefits.

Beneficiaries who are unsure about whether or not they have to pay taxes should contact the Internal Revenue Service (IRS) or seek the services of a qualified tax professional.

QUESTION: I am getting income tax refunds this year. Do I need to report this to Social Security?

No, you do not need to report this as income no matter what type of Social Security benefits you receive.

Federal and/or state income tax refunds are specifically disregarded as a form of income by the SSI program. This is because SSI counts your gross income when it is received so your SSI check has already been adjusted without regard to any taxes withheld.

NOTE: Income tax refunds are not counted as income for SSI purposes even if these taxes were excluded from countable income as Blind Work Expenses for a beneficiary designated as statutorily blind. For more information see POMS SI 00815.270 - Income Tax Refunds.

Prior to January 1, 2010 the SSI program counted any tax refunds which were retained on the first day of the month after they were received as a resource. If by retaining the refund, your countable resources exceeded the limit (\$2,000 for an individual or \$3,000 for a couple) you could have become ineligible for SSI and Medicaid. On December 17, 2010, the President signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, or Tax Relief Act. This law excluded all federal tax refund payments received on or after January 1, 2010 from counting as resources for a period of 12 months. The 12-month period begins the month following the month of receipt of the refund or payment. This important change is documented in POMS SI 01130.676 - Federal Tax Refunds and Advanced Tax Credits.

In the Title II Disability program (SSDI, CDB or DWB), Social Security is only interested in earned income – money you receive in exchange for work performed. Since the Title II programs also base their determinations on gross countable earned income, the money you are being refunded has already been accounted for. Income tax returns are not considered additional income. In addition, since the Title II Disability benefits program is a form of insurance which is not means-tested in any way, resources are never considered. Putting your refund in the bank will have no affect on your benefits.

QUESTION: I will be getting an Earned Income Tax Credit payment this year – is this something I need to report to Social Security?

The Earned Income Tax Credit (EITC) is a special tax credit that reduces the federal tax liability of certain low income working taxpayers. This tax credit sometimes results in a payment to the taxpayer, either as an advance from an employer or as a refund from IRS. For more detailed information about the EITC go to the IRS website at:

<http://www.irs.gov/individuals/article/0,,id=96466,00.html>

The Earned Income Tax Credit (EITC) is not counted as income for either the SSI program or the Title II Disability benefits and does not need to be reported to Social Security. In addition, for the SSI program, any unspent federal tax refund or payment made by an employer related to an EITC that was received on or after 3/2/04 up through December 31, 2009 is excluded from resources for the 9 calendar months following the month the refund or payment is received.

On December 17, 2010, the President signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, or Tax Relief Act. This law excludes all Earned Income Tax Credit (EITC) payments received on or after January 1, 2010 from counting as income for SSI purposes and from counting as resources for a period of 12 months. The 12-month period begins the month following the month of receipt of the refund or payment. This important change is documented in POMS SI 01130.676 - Federal Tax Refunds and Advanced Tax Credits.

NOTE: These exact same rules apply to the Child Tax Credit (CTC). The child tax credit (CTC) is a special refundable federal tax credit that is available to certain low income taxpayers with earned income. They must be parents, step-parents, grandparents or foster parents with a dependent child. This child tax credit may provide a refund to individuals even if they do not owe any tax. The CTC may result in a tax refund payment to the taxpayer from IRS beginning with tax year 2001. There is no advance payment with the CTC.

For more information, refer to POMS SI 01130.675 Tax Advances and Refunds Related to Earned Income Tax Credits and Child Tax Credits and POMS SI 01130.676 Federal Tax Refunds and Advanced Tax Credits On or After January 1, 2010.

QUESTION: Is it possible for the IRS to take some of my disability benefit check if I owe money for delinquent taxes?

Yes, this is possible – but only with Title II Disability benefits (SSDI, CDB or DWB). The SSI program does not permit garnishment, attachment, or levies against payments for any reason since the assumption is that persons receiving SSI have very little income and few if any resources. Effective 7/1/89, the Taxpayer's Bill of Rights (P.L. 100-647) specifically prohibits IRS levies against SSI payments.

In the Title II Disability program (SSDI, CDB and DWB), the IRS may take a portion of your monthly benefit payment to recover delinquent taxes. IRC Section 6331 states that individuals and businesses with delinquent tax liabilities may be subject to a continuous

15% levy against funds owed them by the federal government (including Social Security benefits) beginning in July 2000. To do this, the IRS has to file something called a “Notice of Levy” with Social Security. A Notice of Levy is continuous until the IRS tells Social Security to stop levying. In processing levies, Social Security is merely acting to assist IRS in its duty to collect delinquent taxes. Except for seeing that the processing requirements are met, Social Security has neither the authority nor obligation to question the correctness of an IRS levy.

If a levy is received for an individual who is receiving benefits on behalf of someone else as a representative payee, it will be returned to the IRS. Social Security can only levy an individual’s own benefits.

A taxpayer whose Title II Disability payments are subject to levy may contact the IRS to resolve the issue by paying the tax bill, entering into an installment agreement, or proposing an offer in compromise. For more information about Social Security’s role in processing IRS levies, refer to POMS GN 02410.100 - Internal Revenue Service (IRS) Levy.

QUESTION: Can I have taxes withheld from my Social Security disability benefits?

Yes, this is possible. Public Law No.103-465 amends the Internal Revenue Code (IRC) to allow individuals to request that monies be withheld from certain federal payments to satisfy their federal income tax liability. An amendment to Section 207 of the Act allows this withholding from Title II benefits. Social Security refers to this process as “Voluntary Tax Withholding” or VTW. All Title II beneficiaries (adults as well as children) are eligible for VTW. However, only the beneficiary or his/her representative payee can request VTW. Voluntary Tax Withholding does NOT apply to SSI payments and there is no way to have state income taxes withheld from any Social Security benefit.

Beneficiaries (or their representative payees) need to complete and sign IRS form W-4V (Voluntary Withholding Request) for a VTW request to be valid. This includes a request to stop and as well as start VTW. The withholding rates set by IRS are 7%, 10%, 15%, and 25%. Only these percentages can be used. No other percentages or flat dollar amounts are acceptable. Beneficiaries can start or stop VTW at any time. For more information on VTW processes, refer to POMS GN 02410.015 - Voluntary Tax Withholding (VTW).

QUESTION: Are there special tax deductions that people with disabilities can claim?

Yes, the IRS rules contain many deductions and exemptions related to disability and these would apply equally to SSI recipients and Title II disability beneficiaries. There are far too many special rules for people with disabilities to describe in this document, but a helpful overview may be found in IRS Publication 907 – Tax Highlights for Persons with Disabilities. For more information on the Tax Highlights for Persons with Disabilities, please visit: <http://www.irs.gov/publications/p907/ar02.html>

In addition to these IRS rules, many states offer additional income tax deductions and some city and county governments offer discounts on property taxes or special taxes, such as fees charged for fishing or hunting licenses. Beneficiaries are encouraged to search online for state and local deductions related to disability, or to seek the assistance from a qualified tax professional.

In the Title II program, SSA is only interested in earned income – money you receive in exchange for work performed. State tax credits would not be considered earned income. Since the Title II program is a form of insurance which is not means-tested in any way, resources are never considered. Putting your state tax credit in the bank will have no effect on your benefits.

QUESTION: I filed my tax return for the most recently completed tax year and I was supposed to get a refund. The IRS sent me a letter telling me that my refund was going to go to the Social Security Administration – what happened?

The IRS is permitted by federal law to withhold all or part of any federal income tax refund you are due to satisfy debts you may owe to certain federal agencies. If you owe delinquent Federal taxes, IRS will withhold the balance due from your refund. If your refund exceeds the amount of your delinquent federal taxes, the Department of Treasury's Financial Management Service (FMS) will then deduct the amounts for any delinquent state income taxes, back child support, or delinquent non-tax federal debts such as student loans, amounts owed to Social Security for overpayment of benefits etc., from the payment. Social Security refers to this process as a "Tax Refund Offset" or TRO.

You will receive a letter explaining any adjustments the IRS made to your refund amount and direct deposit(s). You will receive a separate letter from FMS explaining any offset amount, the agency receiving the payment, the address and telephone number of the agency, and amount of your refund/direct deposit that was offset. If you dispute the debt, you should contact the agency shown on the notice, not the IRS, since the IRS has no information about the validity of the debt.

If you made arrangements with Social Security to repay money that you owe them and Social Security is already withholding some of your disability payment to recover the overpayment, you will not be subject to a tax refund offset.

QUESTION: Where can I get more information about tax issues that affect individuals with disabilities?

For additional information about tax issues related to individuals with disabilities, please refer to the IRS website at: <http://www.irs.gov/uac/Disability-Related-Products>. This page contains a collection of IRS tax forms and publications that provide information of interest to persons with disabilities. More information can be found at:

<http://www.irs.gov/Individuals/More-Information-for-People-with-Disabilities>

<http://www.irs.gov/Individuals/Disability-Information-for-Individuals,-Businesses,-and-Partners-Providing-Services>