The statutes that protect Social Security benefits, VA benefits, and pensions do not carve out criminal justice debt. Thus, except for fines and restitution, the usual restrictions on seizure protect these benefits when the federal government is attempting to collect criminal justice debt.

However, fines and restitution are treated differently. As noted in § 11.5.3.1.3, supra, the federal statute that governs enforcement of federal fines and restitution applies “notwithstanding any other Federal law.” Instead of the usual protections, it incorporates by reference certain Internal Revenue Code exemptions for tax debt, including unemployment compensation, workers’ compensation, service-connected disability payments, and job training assistance. However, these exemptions apply only to benefits “payable” rather than “payable or received by.” One court has concluded that there is no protection for these benefits once they have been paid.

The federal statute that governs enforcement of federal fines and restitution does not incorporate the Internal Revenue Code’s protection of Social Security Disability (SSD) benefits, SSI, state public assistance, or welfare payments. However, federal law does provide that the CCPA’s protections for wages apply to federal criminal justice debt. The CCPA defines wages to include “periodic payments pursuant to a pension or retirement program,” so it appears that the CCPA’s limits on garnishment operate as a limit on garnishment of Social Security benefits.

Footnotes

175 See § 14.3 [2], infra.


177 [189] 18 U.S.C. § 3613 (incorporating 26 U.S.C. § 6334(a)(1) to (8), (10), and (12) by reference).

178 See, e.g., United States v. Poff, 2016 WL 3079001, at *5 (W.D. Wash. June 1, 2016) (finding that, because inmate had already received service-connected disability payments in his inmate trust account, those funds are no longer “payable” to him under 26 U.S.C. § 6334(a)(10), and therefore are not exempt from seizure by government).


While the interpretation of the limiting effect of the CCPA is positive to criminal justice debtors, this POMS section is problematic in that it does not clearly delineate between federal criminal justice debt, which can reach social security benefits to some extent, and state criminal justice debt, for which social security benefits are wholly unavailable. See Bennett v. Arkansas, 485 U.S. 395, 108 S. Ct. 1204, 99 L. Ed. 2d 455 (1988); § 11.5.4.3 [5], infra.
Links

[1] https://library.nclc.org/nclc/link/CA.11.05.03.01.03
[3] https://library.nclc.org/nclc/link/CA.12.02.01.04.05
[5] https://library.nclc.org/nclc/link/CA.11.05.04.03