

## Chapter 3 Restrictions on Levy

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### 3.1 (\*\*\*\*) Property Exempt from Levy

(1) IRC 6334 describes property that is exempt from levy. Some are property that would be taken by seizure procedures, if not for the exemption. See seizure instructions about these. Others are income that would be taken by a notice of levy, if they were not exempt. The exempt income sources are:

- Unemployment benefits,
- Certain annuity and pension payments, including payments under the Railroad Retirement Act, Railroad Unemployment Insurance Act, Special Pensions for Medal of Honor Winners, and Retired Serviceman's Family Protection Plan and Survivor Benefit Plan,
- Workers Compensation,
- Judgment for support of minor children, if the judgment is before the date of the levy,
- Minimum exemption for wages, salary, and other income,
- Certain military service connected disability payments,
- Certain public assistance payments,
- Assistance under the Job Training Partnership Act.

**Note:** The Taxpayer Relief Act of 1997 allows for levy on 15% of certain previously exempt government payments. However, the intent of this provision was to make a computer match possible between tax liabilities and records of payments from the government's disbursing agencies, so a flat percentage of the payments could be attached. Continue refraining from issuing notices of levy on the payments listed above.

(2) See IRC 6334 and the Legal Reference Guide for Revenue Officers for additional information about property exempt from levy.

(3) Members of the military and Public Health Service employees may deposit money in a Special Treasury Fund. Money can be deposited while the employees are outside the U.S. and its possessions. This money can not be levied. See Subsection 1035 of Title 10 of the U. S. Code.

(4) No other property is exempt from levy. No state or local law can exempt property from levy to collect federal tax.

**Example:** Even if property is exempt under a state homestead exemption law, it is not exempt from federal levy.

### 3.2 (\*\*\*\*) Property Exempt from Levies Used to Collect Child Support TDAs

(1) When child support TDAs are being collected, three of the things in 3.1:(1) are not exempt from levy.

- Unemployment benefits
- Certain annuity and pension payments
- Amount of income needed to pay a judgment for the support of minor children. However, income withheld for a judgment for child support is not levied, if the judgment is dated before the levy.

(2) Use Letter 1696 (P) to explain the exemptions that do not apply for

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notice of Levy

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Exhibit 3-1  
Letter 1696(P) (Rev. 1-90)

(Reference 3.2)

Taxpayer's Name:  
Address:  
Social Security Number:  
Person to Contact:  
Telephone Number:

(Name and Address of Levy Source)

(Salutation):

The enclosed notice of levy is for the collection of a delinquent child support obligation as authorized by section 6305 of the Internal Revenue Code. The following exemptions from levy under Code sections 6334(a)(4), (6), and (8) listed on the back of Part (Insert 4, if Form 668W(C)(DO) is enclosed. Insert 1, if Form 668A(C)(DO) is enclosed.) of the levy do not apply:

- 1) Unemployment benefits,
- 2) Certain annuity and pension payments, and
- 3) Judgments for support of minor children unless the funds are actually withheld because of a garnishment under the judgment.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(Place for signature)

Title

Enclosures:  
Notice of levy  
Envelope

Letter 1696(P) (Rev. 1-90)

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