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GUIDANCE: ECONOMIC IMPACT PAYMENTS PROVIDED PURSUANT TO THE
AMERICAN RESCUE PLAN ACT OF 2021 ARE EXEMPT FROM SEIZURE BY
CREDITORS AND DEBT COLLECTORS

The Office of the Attorney General (AGO) issues the following guidance concerning economic impact payments to be paid to Massachusetts residents pursuant to recent federal legislation. This guidance relates to the AGO's enforcement of the Massachusetts Consumer Protection Act, G.L. c. 93A and the Attorney General Debt Collection Regulations, 940 CMR 7.00.

Background:

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 ("the American Rescue Plan" or "the Act"). The American Rescue Plan provides economic impact payments of up to \$1,400 per person and \$1,400 for each of their qualifying dependents claimed on their tax return.

Section 9601 of the American Rescue Plan provides cash assistance to individuals and families subject to means-tested eligibility criteria. Specifically, the Act provides for a one-time cash payment in the form of a refundable tax credit, identified as "2021 recovery rebates for individuals," of up to \$1,400 for each eligible individual or \$2,800 in the case of eligible individuals filing a joint return, plus an additional \$1,400 per dependent child. Individuals with higher incomes will receive a lesser payment or no payment whatsoever.

Guidance:

Massachusetts law exempts certain income and property from garnishment or attachment by creditors. *See* G. L. c. 235, § 34 (listing property exempt from seizure by judgment creditors); G. L. c. 223, § 42 (describing property exempt from attachment). Specifically, "the full amount owing or paid to a person as public assistance" is exempt from garnishment or attachment by creditors. G. L. c. 235, § 34, cl. 15. The term "public assistance" encompasses a broad range of state and federal programs, including those that provide cash assistance or in-kind benefits to individuals and families on a means-tested basis. A broad construction of this term advances the purpose of the exemption statutes, which is to ensure that individuals have sufficient income and property to provide for basic necessities. The courts have long construed these exemption laws liberally to effectuate the underlying public purpose of protecting individuals with low to moderate household income. *See, e.g., Dwyer v. Cempellin*, 424 Mass. 26, 29 (1996).

It is the Attorney General's view that, under Massachusetts law, all economic impact payments provided to Massachusetts residents under Section 9601 of the American Rescue Plan Act, Pub. L. No. 117-2, constitute "public assistance" under G.L. c. 235, § 34. Accordingly, the economic impact payments are exempt from seizure, including garnishment, under G. L. c. 235, § 34, and attachment under G. L. c. 223, § 42, and remain exempt after payment regardless of the manner in which the funds are deposited or thereafter held.

Because economic impact payments under Section 9601 are exempt under state law, any action, or threat to take action to garnish, attach or otherwise seize these funds to collect or attempt to collect a debt violates the Attorney General's Debt Collection Regulations, which prohibit the compulsory collection of funds or property that are exempt by law. 940 CMR 7.07(18)-(19). Any person, including, his or her agents, servants, employees, or attorneys, collecting or attempting to collect a debt who threatens or takes action to garnish, attach, or otherwise seize funds paid to individuals under section 9601 of the American Rescue Plan Act is engaged in conduct that violates the Attorney General Debt Collection Regulations.

This guidance addresses only the application of the Attorney General's Debt Collection Regulations to collection or attempts to collect a "debt" as defined by 940 CMR 7.03 against "public assistance," as that term appears in G. L. c. 235, § 34. The guidance does not express an opinion regarding the meaning of that term as it used in any other statute or regulation. Finally, this guidance is inapplicable to any actions taken by the Massachusetts Department of Revenue, including, but not limited to, any actions taken to collect past due child support pursuant to G. L. c. 119A.

Dated: March 17, 2021