

Exemption Amount for Certain Benefit Payments Made Electronically or by Direct Deposit Increases to \$2,850

April 2, 2018

Under New York's Exempt Income Protection Act ("EIPA"), certain funds in deposit accounts are exempt from most restraining notices and levies. One exemption under the EIPA is for statutorily exempt payments made electronically or by direct deposit. The amount of that exemption is set by statute, and increases every three years based on changes in the Consumer Price Index. The exemption amount has now increased from \$2,750 to \$2,850 effective as of April 1, 2018.

The EIPA took effect in 2009 and, among other things, requires financial institutions to exempt certain funds in deposit accounts from the reach of creditors seeking to restrain or levy on those accounts. There are two exemptions under the EIPA: one for wages, and a separate exemption if an account received a direct deposit or electronic payment of amounts "reasonably identifiable as statutorily exempt" funds during the 45-day period preceding the service of the restraining notice or levy. If there was such a direct deposit or electronic payment during that 45-day period, then the financial institution generally must make available to the depositor an exempt amount despite the restraining notice or levy. That exempt amount is tied to the Consumer Price Index and is adjusted as of April 1st every three years. The New York State Department of Financial Services has indicated that the current exempt amount is \$2,850 as of April 1, 2018.

Under the separate wage exemption, a financial institution must make a certain amount available to the depositor based on the amount of the federal or New York State minimum wage (whichever is higher). Our recent advisory describing the wage exemption can be found [here](#).

Please note that this is a general overview of the EIPA, and this advisory is not intended as legal advice. The requirements of the EIPA are very detailed and must be reviewed in their totality and also in connection with federal rules protecting certain funds from garnishment.

If you have any questions regarding the EIPA or the exemption of depositor funds from restraint or levy, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenanddykman.com, or Kevin Patterson at (516) 296-9196 or via email at kpatterson@cullenanddykman.com.

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Attorneys

- Kevin Patterson
- Joseph D. Simon