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## [Justice Department Ruling Favors IRS](#)

A new ruling by the Justice Department may give the IRS its long-awaited access to the accounts of tax delinquent federal employees, retirees and military service personnel currently held in the Thrift Savings Plan (TSP). On May 3, the Justice Department's Office of Legal Counsel ruled that the Internal Revenue Code allowing property garnishments should override the 1986 law that created TSP and protected its accounts from being levied.

The TSP is governed by the Federal Retirement Thrift Investment Board which has long rejected all IRS attempts to seize the retirement savings of its participants. Up to now, the IRS has only been able to seize the wages of federal employees to repay tax debts under the Federal Payment Levy Program, but not retirement savings. But the Department of Justice's ruling has opened the way for the IRS to seize participants' accounts in the same way it does for the 401 (k) accounts of those who work in the private sector. The TSP Executive Director Gregory Long has conceded in a May 17 meeting that they would have to eventually comply with Justice's ruling.

In order to allow the IRS to garnish TSP accounts, Congress would have to change the Federal Employees' Retirement System Act that governs the TSP. The House Oversight and Government Reform subcommittee on the federal workforce, Postal Service and District of Columbia is now looking into the matter. If Congress does not amend the Act, then a lawsuit is the likely eventuality.

The thing that the TSP fears for its participants is the possibility of other parties also staking a claim on their accounts for other forms of debt should the Act be revised. Dan Adcock, legislative director for National Active and Retired Federal Employees expressed his concern that retirement savings should be kept safe from deductions for more trivial types of debts like parking fees. Should the Act be changed to allow IRS access to TSP accounts, Adcock wants to ensure that federal employees are given the same rights to appeal and due process as private sector workers.

The IRS says that as of December 2009, 97,200 federal employees and almost 56,200 active-duty and reservist military service members, 41,000 civilian retirees and 81,900 military retirees were behind on their taxes. These almost 276,000 federal tax delinquents owe the IRS a combined total of \$3 billion.

There are some cases where the IRS can already garnish federal employees' TSP accounts. These include paying for child support, alimony and paying for costs related to a child abuse

judgment. If a federal employee is convicted of a national security offense, his matching contributions, agency automatic contributions and any money earned from those contributions can also be confiscated. But his own contributions and related earnings cannot be garnished.

Darrin T. Mish is a veteran, nationally recognized tax attorney who has focused on providing IRS help to taxpayers for over a decade. He regularly travels the country training other attorneys, CPAs and enrolled agents on how to handle their toughest cases with the IRS. He is highly ranked among the top attorneys in the country, with an AV rating from Martindale-Hubbell and a perfect 10 on Avvo.com. Martindale-Hubbell has also honored him with a listing in their Bar Register of Preeminent Lawyers. He is a member of the American Society of IRS Problem Solvers and the Tax Freedom Institute. With clients on every continent but Antarctica, he has what it takes to solve your IRS problems no matter where you live in the world. If you would like more information about his practice and how he can help you, please call his office at (813) 229-7100 or toll free at 1-888-GET-MISH.