

## Seizure protection account (P account)

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### General information on account seizure protection

*(Joint information from the working group for debt counseling of the associations and the umbrella organizations of the German banking industry [The German Banking Industry])*

#### Conversion claim Every account

holder has the right to have their existing current account converted into a seizure protection account (P account). The conversion can also be requested by a proxy. The conversion is also possible if the account is kept as a debit.

#### Basic account

Consumers who do not have a current account or a payment account that cannot actually be used are entitled to open a basic account, provided they are legally resident in the European Union. This also applies to consumers without a permanent place of residence and asylum seekers, as well as people without a residence permit who cannot be deported (tolerated persons). The basic account allows all the necessary functions of a current account.<sup>1</sup> When applying for the basic account, it can already be agreed that the basic account should be managed as a P account.

<sup>1</sup> <https://www.die-dk.de/kontofuehrung/basiskonto/>

#### Ban on multiple garnishment protection accounts Each

person may only have one checking account as a P account. Keeping multiple P accounts is prohibited and may result in criminal prosecution. In the case of an account change in particular, it must be ensured that the function of the previous account as a P account is canceled before the new account is converted into a P account. If you wish, your new bank will support you in switching accounts.

#### Protection against garnishment for joint accounts The

law only permits P accounts as individual accounts. A joint account (e.g. spouse account) cannot be managed as a P account. If a joint account is attached, the bank may only pay out amounts from the credit balance of the account to the attachment creditor one month after the attachment has been served (specifically after the delivery of the transfer decision). Each of the co-account holders can/should use this monthly period and set up an individual account for themselves if one does not already exist. The respective co-account holder must then have the pro rata balance per account holder transferred to these individual accounts within this monthly period. Further credits within this monthly period can then be transferred proportionately. In principle, the balance is divided per capita, i.e. half each for two joint account holders, one third each for three, etc. In special cases, the joint account holder and the attaching creditor can also agree on a different distribution key. To do this, however, they need the consent of all the attachment creditors who have attached the joint account. The bank must be informed of any other distribution in text form (e.g. by letter, fax, email).

The garnishment debtor must keep his individual account as a P-account in order to be able to dispose of the transferred credit (his share from the joint account) within the scope of his garnishment exemption amounts. The co-account holder(s) who are not seized do not need a P account. Your transferred credit share from the joint account is no longer subject to seizure.

After the one-month period has expired, it is no longer possible to transfer further credits from the joint account to the individual accounts. The joint account holders must therefore use the monthly period and ensure in good time that credits (e.g. salary, pension, social benefits) are transferred to the respective individual account. However, you must also ensure that debits (e.g. rent, electricity, insurance premiums, etc.) are then made from one of the individual accounts. The joint account should be closed at the end of the monthly period. Then no more credits can be booked there and also not paid out to the garnishee.

Conversion into a garnishment protection account is also possible after the account has been garnished.

Conversion into a P account can also be requested if garnishments have already been served on the current account. If the conversion into a P-account is completed within one month of the delivery of the garnishment and transfer order at the bank (credit institutions have three business days to process it), then the protective effect of the P-account applies from the delivery of the garnishment and transfer order – otherwise only for the future.

#### Automatic garnishment protection - basic allowance If the P account

is garnished, the account holder receives automatic garnishment protection in the amount of a basic allowance of currently 1,340.00 euros per calendar month. Claiming the garnishment exemption amount on the garnishment protection account requires a corresponding balance at this point in time. The account holder can easily dispose of credit balances up to a maximum of the basic allowance even after the attachments have been served (e.g. by bank transfer, standing order and direct debit). The type of income (wages, social benefits, tax refunds, etc.) and the time of receipt of payment are irrelevant; the garnishment exemption applies to the respective calendar month.

*Example of a single parent with a child: –*

*Current income from work is EUR 2,000.00; plus 250.00 EUR child benefit.*

*– The account balance is EUR 2,250.00 at the time the attachment and transfer order is served.*

*– Of these EUR 2,250.00, EUR 1,340.00 are automatically protected against seizure, even if the seizure only occurs towards the end of the month enters*

## Seizure protection account (P account)

With certificate – increased exempt amount In addition to

the automatically existing basic exempt amount, the seizure exempt amount for the P account can be increased by further exempt amounts depending on the life situation of the account holder (garnishee debtor). This is particularly the case if he provides maintenance to one or more persons due to a legal obligation or accepts certain social benefits or benefits under the Asylum Seekers Benefits Act for third parties (e.g. partner, stepchild). Then the following increased allowances currently apply: – EUR 1,840.62 with one maintenance obligation – EUR 2,119.52 with two maintenance obligations – EUR 2,398.42 with three maintenance obligations – EUR 2,677.32 with four maintenance obligations – EUR 2,956.22 with five/more maintenance obligations .

Cash benefits from the mother-child foundation and certain social benefits that compensate for the additional expenses resulting from physical injury (e.g. the basic pension and the severely disabled allowance under the Federal Pensions Act, the care allowance for self-procured care aids as a benefit of the statutory care insurance or the blind allowance are also exempt from garnishment ). The same applies to certain social benefits to the debtor himself that exceed the basic tax-free allowance, as well as other certain non-attachable benefits and benefits paid in arrears. Get advice on this from a recognized debtor and consumer insolvency advice center.

One-off social benefits (e.g. costs for school trips, initial equipment after birth) are also exempt from attachment. The child benefit and child supplements that flow into the attached P account are still exempt from garnishment.

In order for the increased exemption amount to take effect for him, the account holder must prove to his bank the circumstances that entitle him to an increase in the basic exemption amount by means of a suitable certificate (from the social service provider or a recognized debtor and consumer insolvency advice center, employer, family benefits office, lawyer or tax consultant). .

The Working Group for Debt Counseling of the Associations and the German Banking Industry Association have developed a nationwide certification form<sup>2</sup> . However, this does not mean that only this sample certificate may be accepted as proof, because the law does not stipulate any form requirements. However, the model certificate can be of assistance to the certifying body or person.

<sup>2</sup> <https://www.die-dk.de/kontofuehrung/pfaendungsschutzkonto/>

If one or two (when receiving social benefits) of the above-mentioned bodies do not issue a certificate, the enforcement court or the enforcement body of the public creditor (e.g. tax office, city treasury) must decide.

*Example of a single parent with a child (continued): – Current income from work is EUR 2,000.00; plus 250.00 EUR child benefit.*

*– The account balance is EUR 2,250.00 at the time the attachment and transfer order is served.*

*– Of these EUR 2,250.00, EUR 1,340.00 are automatically protected against seizure, even if the seizure only occurs towards the end of the month enters*

*– If the account holder proves her maintenance payments with the help of the sample certificate or a wage statement from the employer, which shows the statutory maintenance obligations, and if she documents the receipt of child benefit on this account, then EUR 1,840.62 + EUR 250.00 = EUR 2,090.62 EUR garnishment-free.*

Upon application – individual release decision If the attached P-

account is credited with income from work, wage replacement benefits (such as old-age pension, sickness benefit, unemployment benefit) or income from the self-employed that exceeds the automatically protected basic allowance or the increased basic amount, the account holder must contact the enforcement court, to achieve the release of the attached credit in individual cases (e.g. by using the attachment table or in the case of Christmas bonuses, expenses, overtime, etc.). In the case of attachments by public creditors (e.g.

Tax office, health insurance company, etc.) the enforcement agencies of the public creditors are responsible.

In exceptional cases, for example in the case of an attachment due to maintenance claims, the enforcement court can determine lower attachment exemption amounts at the request of the creditor. The credit institution is then bound by these seizure allowances, even if they are lower than the statutory allowances.

*Example of a single parent with a child (continued): – If the*

*account holder proves her maintenance payments with the help of a sample certificate or a wage certificate from the employer, which shows the statutory maintenance obligations, and she proves the receipt of child benefit on this account, this is EUR 1,840.62 + EUR 250.00 = EUR 2,090.62 free of seizure.*

*- According to the garnishment table and in the case of a statutory maintenance obligation, however, only EUR 2,000.00 would be income from work EUR 84.61 attachable. Therefore, an application for release to the enforcement court/enforcement agency is advisable in order to have an amount totaling EUR 1,915.39 plus EUR 250.00 child benefit (= EUR 2,165.39) per calendar month free of attachment now and in the future.*

## Carryover to 3 subsequent calendar months (savings amount)

If the account holder has not used up his garnishment-protected balance by the end of the calendar month, this remaining balance can be transferred for a maximum of three months and is then available in addition to the protected monthly balance. This increases the protected allowance for the following months. The transferred credit will be used first in the following month.

Attention: Only existing credit can be transferred:

*Example of a single parent with a child (continued): – At the*

*request of the debtor, the enforcement court/enforcement agency has a total of EUR 1,915.39 free of attachment per calendar month posed. In addition, there is the EUR 250.00 child benefit, which remains free of seizure by means of a certificate/child benefit notice.*

*– After the garnishment, the account holder only gives EUR 1,000.00 and the child benefit until the end of the month – i.e. in total EUR 1,250.00 - from, the unused, garnishment-protected credit of EUR 915.39 is (automatically) carried over to the following months up to three times.*

*– Attention: If she does not have a total of at least EUR 915.39 in three consecutive months, the transfer order expires carry! However, the bank will point this out to you if an amount threatens to expire at the end of the month.*

*– From the credits that are received in the account in the following month, an unused part can then follow in the following month be carried over the three calendar months. However, the amount carried over to the following months is limited. Only as much may be transferred as was credited to the account in the past month as a new, garnishment-protected amount.*

#### Seizure protection account (P account)

##### Protection from garnishment also for the self-

employed The base protection and the increased base protection with the help of the model certificate or the decision also apply to the income of the self-employed. The court or the enforcement agency will release a higher exemption amount at the request of the self-employed account holder. As a rule, the monthly net income after deducting the operating costs from the turnover must be proven in court.

##### A garnishment protection account is always a credit account . The

law stipulates that a P account may only be managed on a credit basis and only grants protection against garnishment in the amount of the respective exemption amount if there is a corresponding credit balance. This rules out, for example, overdrafts being granted or overdrafts being permitted on a P account. The use of a credit card is then no longer possible, unless it is a prepaid credit card.

##### Protection for accounts with a debit

balance Even if an account – without garnishment – shows a debit balance, the account holder can request conversion into a P account. Since the P account may only be managed as a credit, the debit balance must be booked out. The bank can set up a second account or a sub-account for this purpose. If the account holder has requested conversion into a P account, the bank may no longer offset credits in the amount of the respective (increased) basic exemption amount against the debit balance. This is to ensure that people with overdrawn accounts can also make a living within the scope of the garnishment exemption amounts. It is advisable to strive for a reduction of the debit balance in order to become debt-free with your account-holding institute.

If a seizure is received on a debit account, the ban on offsetting and set-off also applies to the bank.

Important: To do this, the account holder must actually request conversion to a P account within one month of receipt of the attachment.

##### Termination of the P-account function The

account holder may request the bank to terminate the P-account function of the account by giving four business days' notice to the end of each month. This is useful, for example, when dealing with an attachment or when the P account is to be set up with another giro account. The account will then be continued unchanged under the previous conditions. The use of the credit card or an overdraft facility can then be applied for again.

##### Order of non-seizure At the request of

the account holder, the enforcement court can order that the garnishment protection account is not subject to garnishment for a period of up to twelve months. To do this, the account holder must prove that in the last six months before the application was submitted, the majority of the amounts credited to the account were only non-attachable amounts, and he must credibly demonstrate that the same can be expected for the following six months. If the enforcement court orders non-seizure (for up to twelve months), he would not need to take any further steps to obtain his account seizure protection if another account seizure takes place during this protection period.

However, he must reapply for the non-seizure order in good time.

##### Reporting to credit bureaus The

law stipulates that credit institutions, e.g. B. the SCHUFA, can be communicated. This information is intended to prevent the abusive management of several garnishment protection accounts by one person. Upon request, the bank will only receive information from the credit agency as to whether the account holder already has a seizure protection account at another bank if the account holder wants to have his checking account converted into a seizure protection account. Information about the creditworthiness of the account holder does not include the fact that the account holder has a seizure protection account.