Child Support, Tax Levies and Garnishments

What You Can & Can't

Deduct from Your Employee's Pay

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Solutions (th)at Work

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Ch 1: Child Support

The Law:

Federal law *requires employers to report information about newly hired and rehired employees* to a designated state agency within 20 days of hire. State law may require you to report sooner.

You must report the required seven elements (employee name, SSN, address, date of hire and the employer's name, address, and FEIN), with some states requiring additional information.

You **must report employees you previously employed** and who return after having been separated for at least 60 consecutive days. In some states, the timeframe is even shorter than the federal minimum.

Ch 1: Child Support

The CCPC (Consumer Credit Protection Act) **limits the amount that can be deducted from "disposable pay"** for child support and these **limits apply even if more than one garnishment* (child support, plus another type, or even multiple child support orders) *is in effect*

Federal Law, in the Consumer Credit Protection Act, (CCPA), 15 USC 1673(b)(2) says:

2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

> (A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and
>
> (B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week; except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

**Limits do not apply to federal or state tax levies*

Ch 1: Child Support

In a nutshell, this means that the CCPA limits are up to 50 percent of a worker's disposable earnings to be garnished for these purposes if the worker is supporting another spouse or child, or up to 60 percent if the worker is not. An additional 5 percent may be garnished for support payments more than 12 weeks in arrears.

Allowable disposable income is the maximum available for child support withholding. In most cases, the amount ordered to be withheld will be less than the allowable disposable income amount, and the ordered amount can be withheld without any problem. Even if the withholding order specifies a higher payment, the allowable disposable income is the most that may be withheld.

Multi-state notices – calculation example

Calculating withholding amounts for two states within CCPA limits when both notices are for fixed-dollar amounts.

Scenario:

- Wisconsin notice is for $200 per month
- Minnesota notice is for $350 per month
- Employee's **gross income** is $900/month
- Employee's CCPA limit is 55% of **disposable income**
- Disposable income is $750/month

Calculation:

- Employee's CCPA limit is 55% of disposable income: 55% x $750 = $412.50
- Total amount due per notices: $550 ($200 + $350) is above the CCPA limits
- Wisconsin notice is 36% of total ($200/$550)
- Minnesota notice is 64% of total ($350/$550)
- Prorated amount for Wisconsin notice: 36% of $412.50 = $148.50
- Prorated amount for Minnesota notice: 64% of $412.50 = $264
- **Withhold $148.50 and remit to Wisconsin and**
- **Withhold $264 and remit to Minnesota**

Child Support Guideline Models By State

State/ Territory	Link to Guidelines
Alabama	Rule 32, Alabama Rules of Judicial Administration
Alaska	Rule 90.3, Alaska Civil Rule
Arizona	Arizona Child Support Guidelines
Arkansas	Administrative Order of the Supreme Court No. 10
California	California Family Code §§ 4050-4076
Colorado	Colorado Rev. Stat. §§ 14-10-115 et seq.
Connecticut	Child Support and Arrearages Guidelines
Delaware	13 Delaware Code §514
District of Columbia	D.C. Code Ann. § 16-916.1
Florida	Florida Title VI, Chapter 61.30
Georgia	Georgia Child Support Guidelines
Guam	Guam Child Support Guidelines
Hawaii	Hawaii Child Support Guidelines
Idaho	Idaho R. Civ. Pro. 6(c)(6)
Illinois	750 ILCS Illinois Child Support Guidelines
Indiana	Indiana Child Support Rules and Guidelines
Iowa	Iowa Child Support Guidelines
Kansas	Kansas Child Support Guidelines
Kentucky	Kentucky Rev. Stat. §§ 403-210 to -213
Louisiana	Louisiana Rev. Stat. 9:315.1 et seq.
Maine	Maine Rev. Stat. Ann. tit. 19-A, §§ 2001-2010
Maryland	Maryland Fam. Law Code Ann. §§ 12-201 et seq.
Massachusetts	Massachusetts Child Support Guidelines
Michigan	Michigan Child Support Formula Manual
Minnesota	Minn. Stat. Ann. §§ 518A.35 et seq.

Child Support Guideline Models By State

State/ Territory	Link to Guidelines
Mississippi	Miss. Code §§ 43-19-101 et seq.
Missouri	Section 452.340
Montana	Montana Child Support Guidelines
Nebraska	Nebraska Court Rules Chapter 4, Article 2, §§ 4-201 to 4-220
Nevada	Nev. Rev. Stat. §§ 125B.070 to -.080
New Hampshire	N.H. Rev. Stat. §§ 458-C:1 to -:7
New Jersey	New Jersey Rules of Court Appendix IX
New Mexico	N.M. Stat. §§ 40-4-11.1 to -11.6
New York	N.Y. Dom. Rel. Law. § 240(1-b)
North Carolina	North Carolina Child Support Guidelines
North Dakota	North Dakota Child Support Guidelines
Ohio	Ohio Rev. Code §§ 3119.01 et seq.
Oklahoma	Okla. Stat. tit. 43, §§ 118 to 120
Oregon	Oregon Child Support Guidelines
Pennsylvania	Pa. R. Civ. Pro. 1910.16-1 to -5
Rhode Island	R.I. C.S.G. Administrative Order
South Carolina	Southern Carolina Soc. Serv. Reg. 114-4710 to -4750
South Dakota	South Dakota Cod. Laws §§ 25-7-6.1 et seq.
Tennessee	Tennessee Child Support Guidelines
Texas	Tex. Fam. Code §§ 154.001 et seq.
Utah	Utah Code §§ 78B-12 et seq.
Vermont	Vt. Stat. title 15, §§ 653-657
Virginia	Va. Code §§ 20-108.1, 20-108.2
Washington	Wash. Rev. Code §§ 26.19.001 et seq.
West Virginia	West Virginia Child Support Guidelines
Wisconsin	Wisconsin Child Support Guidelines
Wyoming	Wyoming Child Support Guidelines

Ch 2: Tax Levies

When a taxpayer fails to satisfy his or her tax liabilities, the IRS can levy the taxpayer's wages under IRC § 6332(d)(2) requiring employers to help the IRS in its tax collection efforts. **Employers do not have a choice in deciding whether to comply with an IRS levy.**

IRC § 6332 provides that "any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights … to the Secretary." Employers fall squarely within the category of persons required to comply with a levy- Upon levy, the employer must withhold and remit amounts specified in the IRS tables (Publication 1494) until the outstanding tax liability has been satisfied or the levy is released.

Employers who do not comply or who refuse to surrender property subject to a levy *can be held personally liable for the value of the property not surrendered and may additionally be subject to a penalty equal to 50% of that property's value* (IRC § 6332(d)(2)). However, employers who comply with levies "shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment."

Ch 2: Tax Levies

Employers generally have at least one full pay period after receiving a Form 668-W, Notice of Levy on Wages, Salary and Other Income before they are required to send any funds from their employee's wages.

If wages are levied the levy will end when:

- The levy is released
- The tax debt is paid in full or
- The time expires for legally collecting the tax.

Ch 2: Tax Levies

How to Calculate a Tax Levy Deduction

First, calculate the employee’s gross pay for the pay period. Gross pay is income before deductions.

Next, deduct payroll taxes, such as federal income tax, Social Security tax, Medicare tax and applicable state and local taxes from gross pay. Use the IRS Circular E’s tax withholding tables to calculate federal income tax. Calculate Social Security tax and Medicare tax. Compute state and local income tax based on your state or local revenue agency’s guidelines. Make additional deductions that the state may require according to the administering agency’s guidelines.

Then, subtract existing child support payments, if applicable. Child support takes precedence over a levy if the support order was established before the levy; otherwise, the levy comes first.

Next, deduct voluntary deductions that were already in place before you received the levy. Consult IRS Publication 1494 to determine the amount that is exempt from the levy based on the employee’s pay period, and the filing status and number of exemptions he claimed on his Statement of Exemptions and Filing Status.

Lastly, subtract the exempt amount from the employee’s pay after deducting taxes and existing child support and voluntary deductions. The remainder is the levy amount that you must send to the IRS.

Ch 3: Garnishments

A wage garnishment is any legal or equitable procedure through which some portion of a person's earnings is required to be withheld by an employer for the payment of a debt. Most garnishments are made by court order. Other types of legal or equitable procedures for garnishment include IRS or state tax collection agency levies for unpaid taxes and federal agency administrative garnishments for non-tax debts owed the federal government.

Wage garnishments do not include voluntary wage assignments—that is, situations in which employees voluntarily agree that their employers may turn over some specified amount of their earnings to a creditor or creditors.

Title III of the Consumer Credit Protection Act limits the amount of an employee's earnings that may be garnished and protects an employee from being fired if pay is garnished for only one debt.

Ch 3: Garnishments

The amount of pay subject to garnishment is based on an employee's "disposable earnings," which is the amount left after legally required deductions are made. Deductions not required by law—such as those for voluntary wage assignments, union dues, health and life insurance, contributions to charitable causes, purchases of savings bonds, retirement plan contributions (except those required by law) and payments to employers for payroll advances or purchases of merchandise—usually may not be subtracted from gross earnings when calculating disposable earnings under the CCPA.

The law sets the maximum amount that may be garnished in any workweek or pay period, regardless of the number of garnishment orders received by the employer. For ordinary garnishments (i.e., those not for support, bankruptcy, or any state or federal tax), the weekly amount may not exceed the lesser of two figures: 25% of the employee's disposable earnings, or the amount by which an employee's disposable earnings are greater than 30 times the federal minimum wage (currently $7.25 an hour).

For example, if the pay period is weekly and disposable earnings are $217.50 ($7.25× 30) or less, there can be no garnishment. But, if disposable earnings are more than $217.50 but less than $290.00 ($7.25× 40), the amount above $217.50 can be garnished. A maximum of 25% can be garnished, if disposable income earnings are $290.00 or more. When pay periods cover more than one week, multiples of the weekly restrictions must be used to calculate the maximum amounts that may be garnished.

MAXIMUM GARNISHMENT OF DISPOSABLE EARNINGS UNDER NORMAL CIRCUMSTANCES* FOR THE $7.25 MINIMUM WAGE

Weekly	Biweekly	Semimonthly	Monthly
$217.50 or less: NONE	$435.00 or less: NONE	$471.25 or less: NONE	$942.50 or less: NONE
More than $217.50 but less than $290.00: Amount ABOVE $217.50	More than $435.00 but less than $580.00: Amount ABOVE $435.00	More than $471.25 but less than $628.33: Amount ABOVE $471.25	More than $942.50 but less than $1,256.66: Amount ABOVE $942.50
$290.00 or more: MAXIMUM 25%	$580.00 or more: MAXIMUM 25%	$628.33 or more: MAXIMUM 25%	$1,256.66 or more: MAXIMUM 25%

Ch 3: Garnishments

Employees earning wages in states where the state wage garnishment limits are different from the federal limit, the one that results in the lower garnishment amount is used.

State(s)	Requirement
DE,	15% of wages
IL	15% of gross wages or amount which disposable earnings exceed 45 times of the higher of federal or state minimum wage
WI	20% of disposable earnings
AL, AZ, CA, CO, DC, GA, ID, IN, KS, KY, LA, MD, MS, MO, MT, NE, NY, OH, OK, OR, SC, TN, UT, VT, WY	Lesser of 25% of disposable or amount exceeds 30 times federal minimum wage
WA	Lesser of 25% of disposable or amount exceeds 35 times federal minimum wage
CT, IA, ME, MN, NM, ND, VA,	Lesser of 25% of disposable or amount exceeds 40 times the higher of federal or state minimum wage
NV, NH,	Lesser of 25% of disposable or amount exceeds 50 times the higher of federal or state minimum wage
WV,	Lesser of 20% of disposable or amount exceeds 30 times federal minimum wag
SD,	Lesser of 20% of disposable or amount exceeds 40 times federal minimum wag
AK, FL, HI,	States limits within code based on dollar amounts
AR, MI, NC,	No limits set in code
MA,	$125 exempt from levy each pay period
NJ	$48 per week are exempt; 10% if wages exceed $7,500 per year
PA, TX	Not permitted except in certain circumstances
RI	Up to $50 are exempt from attachment

Ch 3: Garnishments

While federal law has regulations regarding garnishments, it is state law that regulates the ability of the employer to charge fees for administering a wage garnishment. Some states stipulate allowable fees, and other states do not allow any fees to be charged. Most states that allow fees will permit them to be paid by the employee, and other states call for fees to be paid by the creditor.

State	Fees Permitted
Arizona	$5 each pay period from nonexempt earnings
Arkansas	$2.50 per pay period
California	$1.50 for each payment
District of Columbia	$2.00 for withholding order
Florida	$5.00 for 1st deduction, $2.00 each deduction thereafter
Georgia	$50 or 10% of amount paid into court (whichever is greater) but not to exceed $100 as reasonable attorney's fees or expenses
Illinois	2% of amount to be deducted
Indiana	Larger of $12 or 3% of total amount to be deducted ½ of fee from employee, ½ of fee from amount due creditor
Kansas	$10 for each 30-day period
Louisiana	$3 from nonexempt income each payment garnishment is in effect
Maine	$1 per check issued and forwarded to creditor
Michigan	$6 fee paid by plaintiff at the time a writ of garnishment is served
Minnesota	$15 paid by creditor to employer at time of service of garnishment
Missouri	Greater of $8 or 2% of amount withheld. Taken from employee's wages
Nevada	$5 paid by creditor to employer at time a writ of garnishment is served. Employer entitled to$3 per pay period not to exceed $12 per month
New Jersey	5% for compensation towards expenses and services in processing each payment
North Dakota	$10 paid by creditor when employer is served with garnishment summons
Oklahoma	$10 from employee's funds for answering a garnishment summons
Oregon	$2 processing fee for each week a payment is made unless withholding reduces below minimums. Must collect after last payment is made
Rhode Island	$5 paid by employee for each writ of garnishment
South Dakota	$15 for garnishee summons being served
Texas	Lessor of actual costs or $10 from disposable earnings
Utah	$10 for a single garnishment or $25 for continuing garnishment paid by creditor directly to employer
Virginia	$10 for each garnishment summons served
Washington	$10 processing fee for 1st disbursement and $1 for each subsequent disbursement. $20 for first payment; if continuing lien $10 at time of second payment
Wisconsin	$15 garnishee fee from creditor for each garnishment or extension

Ch 3: Garnishments

Employers are required to treat wage garnishments as a matter of priority. If multiple wage garnishments are in place, the employer must process them in the order of their arrival – only one creditor garnishment at a time. For example, if two creditors obtain a judgment to garnish the same employee's pay, whichever garnishment the employer receives first gets processed first.

However, child support orders and IRC tax levies take priority. The employer should always contact the issuing agency when there is concern or confusion over the order in which to make wage garnishments.

Ascentis Makes Sense

Ascentis Payroll is SaaS payroll software that allows you to process payroll in real-time, ensuring 100% accuracy, flexibility and control. When payroll staff can process payroll quickly and accurately every time, CEO's can rest assured that every payroll is a correct payroll and that labor dollars are accurate. CEO's like knowing that their organization has invested in a system and business partner that grows with the company, with upgrades and enhancements to the software available in real time with tax and compliance updates happening behind the scenes with no strain on any department and at no additional cost for "upgrades."

It's not just the accuracy, robust interface, or the easy Wizard-driven software that our customers love. They love our high level of service, the security of our online payroll processing, the cost savings they experience, the full integration with the Ascentis software suite and easy integration other third-party systems. See for yourself what our customers have to say about Ascentis.

Learn more. Click here to watch our 4-minute demo.

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