

GARNISHMENT

Instructions for Employer

Garnishment is a legal procedure that a creditor uses to collect money from a debtor. The process permits the creditor to force you, the debtor's employer, to pay money you owe the debtor for wages to the creditor instead. For garnishment, "employee" includes both employees and many independent contractors. (This is explained below.)

When you receive a garnishment order, you must act or you might become liable for penalties. These instructions provide a summary of your obligations, but are not a complete list of all responsibilities. You may want to consider obtaining legal advice about your obligations.

How the garnishment process starts

The garnishment process starts when you are served with a [Form to Commence Garnishment].

Is the debtor named in the [Form to Commence Garnishment] one of your employees?

When you are served with the [Form to Commence Garnishment], the first thing you should do is determine whether the debtor is your "employee."

"Employee" has a special meaning under the [Uniform Wage Garnishment Act]. The word covers two types of workers:

- (1) Workers who you treat as employees for federal-employment-tax purposes, and
- (2) Workers who perform personal services for you and whom you pay on a periodic basis (that is, on set intervals of time). These workers are often thought of as independent contractors, but they are "employees" under the [Uniform Wage Garnishment Act].

If the debtor is not your employee

If the debtor is not your "employee" under either of the definitions above, then you should:

- (1) Complete the form [Employer's Response to Garnishment: No Garnishment to Commence];
- (2) Check the "not an employee" box; and
- (3) Send it to the creditor's agent identified in the [Form to Commence Garnishment].

You must send this form to the creditor's agent ***no later than (21) days*** after being served with the [Form to Commence Garnishment]. *If you send this to the creditor's agent, you do not need to do anything else unless you hear from the creditor again.*

If the debtor is an employee

If the debtor is an employee of yours, then you must send one of the following two forms to the creditor's agent ***no later than (21) days*** after being served with the [Form to Commence Garnishment]:

- (1) [Employer's Response to Garnishment: No Garnishment to Commence]. Send this form if any of the boxes on the form can be checked. *If you send this to the creditor's agent, you do not need to do anything else unless you hear from the creditor again.*
- (2) If none of the boxes on the form [Employer's Response to Garnishment: No Garnishment to Commence] can be checked, then you must send the form [Employer's Response to Garnishment: Garnishment to Commence].

If form [Employer's Response to Garnishment: Garnishment to Commence] is sent to the creditor's agent

If you send this form to the creditor's agent, you must:

- (1) Send to your employee (the debtor) at the same time, a copy of the two notices to the debtor provided by the creditor along with the [Form to Commence Garnishment].
- (2) Determine the appropriate amount to withhold from your employee's pay. You can use the Calculation Worksheet at the end of these instructions to determine this amount.
- (3) Begin withholding the appropriate amount from your employee's pay beginning ***on the first payday that occurs at least [30] days*** after you send the notices to the employee.
- (4) Within [5] days after withholding the appropriate amount from your employee's pay, send that amount to the creditor at the mailing address specified by the creditor or by another means specified by the creditor in the [Form to Commence Garnishment].
- (5) Keep a record of the amount your employee owes the creditor and how much you have paid. The amount your employee owes is in

the [Form to Commence Garnishment], but the creditor can increase or decrease the amount. (See item 2 below.)

- (6) Continue withholding the appropriate amount from your employee's pay and sending it to the creditor every payday until either (a) your records show that the employee's debt has been paid in full or (b) the debtor ceases to be your employee. *If your records show that the employee's debt is paid in full, your obligations are at an end.*

During Garnishment

- (1) If you withhold earnings from more than one employee for the same creditor, you may combine the amounts into one payment and send the payment to the creditor along with the form [Notice to Creditor of Multiple Remittances].
- (2) A creditor may notify you of an increase or decrease in the amount your employee owes. If you receive such a notice, you must send a copy of the notice or a completed Calculation Worksheet to the employee. You must also adjust your records to reflect the new amount.
- (3) For each payday on which a garnishment occurs, you must maintain information sufficient to prepare a Calculation Worksheet.
- (4) A creditor or an employee may ask for a Calculation Worksheet at any time. If one is requested, you must provide it without charge not later than [5] days after receiving the request. You are not required to provide (a) an employee with more than one Calculation Worksheet for each creditor for any payday, or (b) a creditor with more than four Calculation Worksheets for each employee during a calendar year.
- (5) If the debtor ceases to be your employee during the pendency of a garnishment action, you must send to the creditor's agent the form [Notice that the Debtor is No Longer an Employee] ***no later than [21] days*** after the debtor leaves your employment. However, you must keep deducting money from any amounts you owe the employee until either you do not owe the employee any more money or your records show the debt has been paid in full.
- (6) If you receive the form [Notice of Employer Non-Compliance] from a creditor or debtor, it is very important that you respond within the time limits at the bottom of the form. If you respond appropriately within the time limits, you can protect yourself from liability. *If you get this form, you should consider retaining an attorney.*

Calculation Worksheet

The form below is the Calculation Worksheet. You must always retain information that will permit you to complete this form. As indicated above, you may have to provide a completed Calculation Worksheet upon request by either an employee or a creditor.

Garnishment: Calculation of Amount

Debtor:
Creditor:
For earnings paid on:

Calculation of Amount Garnished for this Payday

Disposable earnings:

- 1. Gross earnings paid to debtor: \$ _____

- 2. Amounts withheld:
 - a. Federal social security tax: \$ _____
 - b. Federal medicare tax: \$ _____
 - c. Federal income tax: \$ _____
 - d. State income tax: \$ _____
 - e. City or local tax: \$ _____
 - f. Railroad retirement tax: \$ _____
 - g. Other: \$ _____

- 3. Total amounts withheld: \$ _____
(Sum of items in line 2(a) through (g))

- 4. Disposable earnings: \$ _____
(Line 1 minus line 3)

Garnishment calculation:

- 5. []% of disposable earnings (line 4): \$ _____

- 6. Exemption amount: \$ _____¹

- 7. Line 4 minus line 6 (if less than \$0, enter \$0): \$ _____

¹ This form should include the appropriate exemption amount printed on this line. For example, if the exemption is the minimum permitted by the Consumer Credit Protection Act, the amount inserted here should be \$217.50, which is 30 times the federal minimum wage.

8. Enter smaller of line 5 or line 7: \$ _____
9. Amounts of other current garnishments with higher priority (if none, enter \$0): \$ _____
10. Subtract line 9 from line 8 (if less than \$0, enter \$0): \$ _____
11. Enter the number of other current garnishments with the same priority, plus one: _____
12. Divide line 10 by line 11: \$ _____

The amount on line 12 is the garnishment amount for this pay period.

Statement of Amount Due and Paid

13. Total amount currently claimed by creditor: \$ _____
14. Amounts paid through garnishment:
- a. Prior garnishments: \$ _____
 - b. This garnishment: \$ _____
(Line 12)
 - c. Total garnishments: \$ _____
15. Net amount owed after garnishments to date: \$ _____
(Line 13 minus line 14c)