

Wage Garnishment

In order to recover payment on an outstanding debt, a creditor or debt collector may garnish a consumer's personal earnings. Consumers are provided protection at both the federal and state level. This article provides general information concerning a consumer's rights under state and federal laws.

What is wage garnishment?

Wage garnishment is any legal or equitable procedure through which some portion of a consumer's earnings are required to be withheld by the employer for payment of a debt.

Most wage garnishments must be initiated by court order. After a creditor or debt collector obtains a judgment against a consumer, the creditor or collector may ask the court to issue a writ of garnishment, which allows the creditor or debt collector (garnishor) to garnish the personal earnings of the consumer (garnishee).

Other ways garnishment may be effected include Internal Revenue Service or state tax collection agency levies for unpaid taxes and federal agency administrative garnishments for non-tax debts owed to the federal government. A federal agency collecting delinquent non-tax debt may garnish the wages of a delinquent consumer without first obtaining a court order. This process is known as "administrative wage garnishment."

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

How does wage garnishment work?

Once a creditor or debt collector has obtained a writ of garnishment, the garnishor must provide notice to the consumer's employer. The garnishor must also provide the consumer with notice of the garnishment. The notice, which varies between courts, generally informs consumers that a garnishment has been adjudicated against them, the amount to be garnished, the length of time the garnishment will remain in effect and provides consumers with information regarding their rights and exemptions.

What are the federal restrictions on wage garnishment?

The amount of pay subject to garnishment is based on the consumer's **disposable earnings**. Disposable earnings are the amount left after legally required deductions have been made. Some examples of such deductions are federal, state and local taxes, Social Security benefits, and state unemployment insurance.

However, union dues, health and life insurance, contributions to charitable causes and purchases of savings bonds are not legally required deductions and therefore count as disposable income. Upon receiving a writ of garnishment, the consumer is allowed to minimize her disposable earnings by claiming the exemptions detailed above.

For ordinary garnishments (i.e., those not for bankruptcy, or any state or federal tax), the weekly amount may not exceed the lesser of two figures: (1) 25 percent of the employee's disposable earnings, or (2) the amount by which an employee's disposable earnings are greater than 30 times the federal minimum wage (currently \$5.85 an hour).

Example:

If the pay period is weekly and disposable earnings are \$175.50 ($\5.85×30) or less, there can be no garnishment.

If disposable earnings are more than \$175.50 but less than \$234.00 ($\$5.85 \times 40$), the amount above \$175.50 is subject to garnishment.

A maximum of 25 percent can be garnished if disposable income earnings are \$234 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.

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Maximum Garnishment of Disposable Earnings Under Normal Circumstances* for the \$5.85 Minimum Wage			
Weekly	Biweekly	Semimonthly	Monthly
\$175.50 or less: NONE	\$351 or less: NONE	\$380.25 or less: NONE	\$760.50 or less: NONE
More than \$175.50 but less than \$234: Amount ABOVE \$175.50	More than \$351 but less than \$468: Amount ABOVE \$351	More than \$380.25 but less than \$507: Amount ABOVE \$380.25	More than \$760.50 but less than \$1,014: Amount ABOVE \$760.50
\$234 or more: MAXIMUM 25%	\$468 or more: MAXIMUM 25%	\$507 or more: MAXIMUM 25%	\$1,014 or more: MAXIMUM 25%

* These restrictions do not apply to garnishments for child and/or spousal support, bankruptcy or actions to recover state or federal taxes.

Source: The Department of Labor provides the following table on its Web site, <http://www.dol.gov/esa/regs/compliance/wbdl/wbdfs30.htm> last visited March 2008.

What about child support and alimony?

Federal garnishment law allows up to 50 percent of a worker's disposable earnings to be garnished if the employee is supporting another spouse or child, or up to 60 percent if the employee is not.

Can a consumer be garnished by more than one creditor? A consumer's wages may not be garnished if the consumer is already being garnished by another creditor, unless (1) the first garnishment takes less than 25 percent of the consumer's disposable income, or (2) the creditor or collector has a judgment for alimony or child support.

Are there exceptions to this law?

The federal wage garnishment law specifies the garnishment restrictions do not apply to certain bankruptcy court orders or to debt due for federal or state taxes.

If a state wage garnishment differs from federal law, the law resulting in the smaller garnishment must be observed.

What are the state restrictions on wage garnishment?

Though many state statutes track the federal exemption provision described above, if a state wage garnishment law differs, the law resulting in the smaller garnishment must be observed.

Some states allow for an exemption equal to 40 times the federal minimum wage. In these states, the weekly amount of disposable earnings that are exempt equal \$234 ($\5.85×40) or 25 percent of the employee's disposable earnings, whichever is less. Many other states have an exemption higher than 40 times the federal minimum wage. In these states, the exemption may simply state a higher percentage that is exempt or the statute may detail a precise exemption.

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How long can wages be garnished?

Many states allow for the continuous garnishment of a consumer's wages until the judgment is satisfied. However, some states limit the amount of time a garnishor may garnish the consumer. It is essential to understand not only the amount a state exempts from garnishment, but also how long the garnishment will remain in effect according to state laws and rules.

Can a consumer object to garnishment?

The consumer has the right to object to a garnishment on the grounds that she needs the money for her own support or the support of a spouse or children. The consumer must make this objection by filing a form with the court.

Resources

Additional information is available at the Department of Labor, Wage and Hour Division Web site at <http://www.wagehour.dol.gov> or by calling the Wage and Hour Division toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243). Questions over issues other than the amount being garnished or termination should be referred to the court or agency initiating the garnishment.

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