

Other Deductions From Pay

Chapter 9

CPP Study Class
2017

American Payroll
Association

Los Angeles
CHAPTER

Involuntary Deductions

- Deductions over which an employer has no control
- Required by law to deduct a certain amount of the employee's pay and remit it to satisfy the employee's debt
- Failure to deduct and remit subjects the employer to penalty equal to the amount to be deducted plus possible fines and interest

Tax Levies

- Tax Levies
 - Employees who fail to timely pay their federal or state taxes may become subject to, after other collections efforts have been exhausted
- Federal Tax Levies:
 - ‘garnishing’ or ‘attaching’ wages not exempt from levy
 - Received on six-part Form 668-W, ‘Notice of Levy on Wages, Salary and Other Income’
 - Satisfied before all other garnishment/attachment orders, except Child Support Withholding Orders in effect before the Levy
 - Figuring the amount to deduct (exempt from the levy on wages) – 2017 Table, page 9-5; from Pub. 1494

Tax Levies

- Federal Tax Levies:
 - Start with ‘take home’ pay (equals gross wages minus federal/state/local taxes and involuntary / voluntary deductions in effect before receipt of the levy including any involuntary increases) then subtract exempt amount (from table); send the resulting amount to the government....
 - Withholding to begin with 1st payment of wages after receipt; check payable to IRS including employee’s name and SSN; mailed to address on front of Part 1
 - Only stop withholding only upon receipt of Form 668-D, ‘Release of Levy/Release of Property from Levy’
 - Notify IRS when employee’s employment ends by remitting Part 3
 - See example pg 9-7

Child Support Withholding Orders

- Maximum amount to withhold:
 - 50% of employee's 'disposable earnings' if supporting another spouse/children; and
 - 60% if the employee is not supporting another spouse/children
 - Amounts increase to 55% and 65% respectively, if the employee is at least 12 weeks late (i.e. in arrears) in payments
- Disposable earnings are determined by subtracting tax W/H's and mandated state retirement payments
- See example pg 9-13

Child Support Withholding Orders

- Priority over all other garnishment/attachment orders, except tax levies received earlier
- To take effect no later than 1st pay-period beginning after 14 working days following the mailing of the order; sent within 7 business days after pay date
- Employer prohibited from discharging / disciplining / discriminating against an EE subject to W/H for child support or any 1 indebtedness; penalties apply
- Employer's may charge an administrative fee set by states; notify Agency after employee leaves employment or can't work
- Sample 'standardized' Support Order on pgs.9-17/18

Child Support Withholding Orders

- Complying with more than one order-state rules vary...example page 9-26
- Medical child support orders – for children owed support, require employers to enroll children and withhold medical insurance premiums
- ‘National Medical Support Notice’ (NMSN) used by state agencies to enforce provisions
- Employer’s ‘NMSN’ responsibilities, 5 steps, page 28
- Sample of the ‘National Medical Support Notice’ (NMSN), page 9-32/34

Enforcement of withholding orders from other states

- Employer must follow the rules on the order that specify:
 - Duration and amount
 - Person or Agency designated to receive funds
 - Medical support
 - Fees, Costs, Arrears
- Employer must follow the rules of the employee's WORK state when determining:
 - Employers Admin fee
 - Mandatory deductions for calculating disposable income
 - Max amount permitted to be withheld from the noncustodial parents income
 - Time to implement the order and forward \$\$
 - Priorities for withholding and allocating income from multiple work orders

Creditor Garnishments

- By court order, to collect for an employee debt remaining unpaid
- Maximum amount an employee's 'disposable earnings' can be garnished is the lesser of:
 - 25% of the employee's disposable earnings for the week; or
 - Amount by which the employee's disposable earnings for the week exceeds 30 times the federal minimum hourly wage then in effect (\$217.50)
 - Disposable earnings are determined by subtracting tax W/H's and mandated state employee retirement payments
 - See example pg 9-47

Creditor Garnishments

- Employer's responsibilities
 - Contact the agency/court to validate the order
 - Make sure the employee
 - Knows about it
 - Understands any state and federal exemptions
 - Understands affect on take home pay
 - Determine correct legal amount
 - Determine effect/priority on other orders
 - Have legal counsel review

Bankruptcy Orders

- Court appointed bankruptcy trustee notifies ER by bankruptcy order under a court-approved plan requiring a certain amount of the employee's wages to be paid to the trustee
- Employer must stop withholding on any other garnishments, except child support withholding orders
- Priority over any other claim against the employee's wages, including federal/state tax levies received earlier, other than child support orders

Student Loan Collections

- In 1991 Congress amended the Higher Education Act to allow for garnishment of an employee's wages to repay delinquent loans
- Maximum amount an employee's 'disposable earnings' can be garnished is the lesser of:
 - 15% of the employee's disposable earnings for the week; or
 - Amount by which the employee's disposable earnings for the week exceeds 30 times the federal minimum hourly wage then in effect
- Where an employee faces multiple student loan garnishments, the max amount can be:
 - 25% of the employee's disposable; or the amount the EE's disposable exceeds 30 times the minimum hourly wage

Student Loan Collections

- Employee must receive at least 30 days notice before withholding begins to work it out with agency
- No guidance regarding priority, except Child Support Withholding Orders do have priority

Federal Agency Debt Collections

- To collect employee 'other agency' Non-tax debts
- Maximum amount an employee's 'disposable earnings' can be garnished is the lesser of:
 - Up to 15% of the employee's disposable earnings for the week or the amount by which the employee's disposable earnings for the week exceeds 30 times the federal minimum hourly wage then in effect, or 25% of the employee's disposable earnings minus the amounts withheld under the withholding orders with priority

Federal Wage-Hour Law

Restrictions on Deductions

- Places restrictions on deductions when they bring an employee's wages below the minimum wage & OT pay guaranteed by the FLSA
- Reasonable cost of employer provided board, lodging and other facilities *provided for the employee's benefit* may be deducted from wages even if the deduction results in receiving less than minimum wage or OT pay
- Employer can't deduct the cost/maintenance of uniforms that can't be used as street wear if that brings the employee's wages below the required minimum wage

Federal Wage-Hour Law

Restrictions on Deductions, cont.

- ER can deduct amounts equal to principal of loans made to employees from wages even if that brings the employee's wages below the required minimum wage; interest/admin costs can't be included.
- ER can deduct amounts to recover salary advances or overpayments due to bookkeeping errors even if that brings the EE's wages below the required minimum wage; ER should consider spreading out the recovery amount to reduce economic hardship
- Employer can deduct/dock the same amount of pay as missed work time lost; docking an additional amount as a penalty is a FLSA violation if that brings the employee's wages below the required minimum

Federal Wage-Hour Law

Restrictions on Deductions

- Employer may not deduct amounts from wages to pay for employer's share of employment taxes
- Employer may not deduct amounts to recover cash shortages, bounced checks or customers who fail to pay if deductions brings the employee's wages below the required minimum wage; unless proved stolen by court decision

Voluntary Deductions Wage Assignments

- Voluntary agreement/deduction to repay a debt, charitable contributions, U.S. savings bonds, credit union loan repayments, etc.
- Not covered by CCPA
- State law governs wage assignments
- Priority given to the properly registered wage assignment received 1st

Union Dues

- Employer to get written signed authorization from each employee allowing wages to be deducted

Credit Union Deductions

- Employer to get written signed authorization from each employee that details amount to be withheld, duration party to whom withheld wages will be paid

U.S. Savings Bonds

- Allows employees to purchase Series EE U.S. Savings Bonds in denominations beginning @ \$100
- Purchase price is $\frac{1}{2}$ of the bond's denomination or 'face value'
- Interest earned is FIT free until bond is redeemed
- Employer provides enrollment cards, makes deductions, payments, reconciling deduction & bonds purchased, return excess amounts deducted or purchase more
- Administration can be employer as 'issuing agents' or thru 3rd Party administrator, federal reserve bank, or other institution that issues bonds

Charitable Contributions

- Many employers work with local and national charities to provide employees opportunity to donate to charity thru payroll deduction to the appropriate charity organization
- Taxpayers are prohibited from deducting charitable contributions of \$250 or more without substantiation (written acknowledgement)
- \$250 threshold applies separately to each deduction, from a single paycheck
- Grants and loans to EE's & dependents from ER charity not subject to employment withholding taxes



The End!