



State of Illinois
COMPTROLLER

Loleta A. Didrickson

PAYROLL BULLETIN

To: Payroll Clerks of All State Agencies
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Subject: Administrative Garnishment
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Recently enacted federal law has created a new form of garnishment for the collection of defaulted Student Loans owed to the Illinois Student Assistance Commission or similar State agencies in other states. Each State agency must institute the necessary procedures to honor these "administrative garnishments" in accordance with the federal law.

This Bulletin describes the responsibilities of State agencies in processing administrative garnishments. With four significant exceptions, the new form of administrative garnishment is similar to private party garnishments currently processed on State payrolls.

The first of the exceptions is the manner in which the administrative garnishments begin. Unlike private party garnishments, there is no court issued Wage Deduction Summons in an administrative garnishment. Instead, ISAC, a similar State agency in another state, or a private third party collection agency acting on behalf of ISAC or similar State agency issues an Order of Withholding from Earnings. The Order of Withholding from Earnings must contain the employee's name, social security number, the amount of the debt, the entity to whom the garnished funds must be sent, the date of issuance of the administrative garnishment and the percentage of disposable earnings to be withheld each pay period. Along with the administrative garnishment, the employer will receive an acknowledgment which should be completed and returned to the creditor within ten business days.

Each State agency is responsible for applying the administrative garnishment. This gives rise to the second major difference from private party wage deductions, in that the administrative garnishment remains in effect until completely satisfied. In other words, there is no fixed period during which the deductions are to be taken, as is the case with private party garnishments. Each State agency is responsible for monitoring the total amounts deducted pursuant to the administrative garnishment to ensure that deductions are taken in the appropriate amount.

In addition, the maximum amount subject to deduction pursuant to an administrative garnishment is different from a private party garnishment. Up to 10 percent of the employee's disposable earnings are subject to the administrative garnishment, unless the employee consents to a greater percentage. Disposable earnings are calculated in the same ways they are currently calculated.

Finally, if the employee has been involuntarily separated from employment within the 12 month period before issuance of the administrative garnishment, the withholding cannot be taken until the employee has been reemployed continuously for at least 12 months.

If other wage deductions are being taken from the employee's disposable income, the administrative garnishment must be taken before the wage deductions. After the administrative garnishment and all other amounts required by law to be withheld are taken, the wage deductions must be taken in order of seniority. Both the administrative garnishment and the wage deduction may be taken if the total amount taken does not exceed 25 percent of the disposable earnings. If the total amount taken exceeds 25 percent, you must withhold for the administrative garnishment and begin to honor the wage deduction up to the amount allowable under federal law (25 percent of disposable earnings). You must begin to honor the wage deduction in full as soon as possible when the administrative garnishment is released or the employee's compensation changes so that both may be taken.

Other wage deductions received after the administrative garnishment should be handled similarly and may be honored in full only if the employee earns enough income to pay both the administrative garnishment and part of or all of the wage deduction. If there is not enough income, the agency must first honor the administrative garnishment and then honor the portion of the wage deduction possible up to the limit of 25 percent of disposable earnings. The wage deduction may be honored in full after the defaulted student loan is paid in full or the debt is otherwise released by the creditor.

In the case of bankruptcy, all withholdings for administrative garnishments must cease. Federal and state income tax levies must be honored before the administrative garnishment. Additionally, support orders must be honored before the administrative garnishment.

Payroll procedures for processing the administrative garnishment will be the same as processing a court ordered garnishment. The only difference is that the money deducted for the administrative garnishment must be vouchered at least once a month.

Payroll Bulletin
June 23, 1995
Page 3

If the employer does not withhold pursuant to the administrative garnishment, the employer may be liable to the creditor for the garnished amount due plus attorney's fees, costs and, in the court's discretion, punitive damages. If you have any questions, please contact Kim L. Kirn, Assistant Legal Counsel, Comptroller's Office at (217) 782-5328 or Dan Steven at (217) 782-4758.

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