

Chapter 9

Other Deductions From Pay

Chapter 9 Summary

Types of Deductions - Involuntary

Tax Levies - Federal Tax Levies

- Form 668-W – Notice of Wages, Salary and Other Income
 - Part 1 Employers Copy of Levy Notice
 - Part 2 Employees Copy of Levy Notice
 - Part 3 & 4 must be returned to Employer within 3 day
 - Part 3 – IRS
 - Part 4 – Employer keeps
 - Part 5 – Employees copy of the tax filing status and exemptions
- Child Support Has priority over tax levies but tax levies have priority over all other garnishments and attachment orders
- Publication 1494 Provides the table to calculate exempt amount from withholding for tax levy
- Form 668-D – Release of Levy
- Form 2158 – Payroll Deduction Agreement

Penalty for not withholding – Employer liable for the full amount to be withheld plus interest, plus 50% of the amount recoverable by the IRS

Chapter 9 Summary

Child Support Withholding Orders

- Maximum withholding amount - 50% of disposable earnings if the employee is supporting another spouse/children. 55% if the employees is at least 12 week late (in arrears)
- 60% of disposable earning if the employee is not supporting another spouse/children. 65% if employees is at least 12 weeks in arrears)

Calculating disposable earnings

- Gross earnings (including lumpsum payments) less all deductions required by law (Federal, State, local taxes, Social Security and Medicare, state unemployment, worker's compensation, and mandated payments to state employee retirement systems)
- Voluntary Deductions (including health care premiums, union dues, retirement etc.)are not subtracted from earnings.
- Other withholding for tax levies, bankruptcy, other child support orders and wage garnishments are not considered required by law.

Chapter 9 Summary

- Child support has priority over all garnishments except for federal levy's received before the child support order
- Uniform Orders establishing by Office of Child Support Enforcement (OCSE) in 2017 – Income Withholding for Support (IOW)
- Medical Child Support Orders – National Medical Support Notice (NMSN)
- Penalty for not withholding – Employer liable for the full amount not withheld and any fee set by state law.

Chapter 9 Summary

Creditor Garnishments are Governed by Consumer Credit Protection Act (CCPA) and are valid for 90 days

25% of disposable earnings (Calculated same as child support)

The amount by which the employee's disposable earnings for the week exceed 30 times the federal minimum hourly wage then in effect (See table 9.2)

Generally valid for 90 days

Employer Responsibilities

- Check to make sure the underlying claim is valid and the amount stated on the order is correct by contacting the agency or court issuing the order
- Tell the employee about the garnishment order to make sure the employee has received a notice that garnishment would be taking place and has had the chance to object
- Tell the employee about any exemptions that might apply under state or federal law and how the garnishment will affect his or her wages and net pay
- Determine whether the amount demanded in the garnishment exceeds the maximum allowed by federal or state law
- If the employee is already subject to one or more garnishment orders, determine their order of priority and how the available disposable earnings must be allocated
- Contact legal counsel to review the garnishment order and answer any outstanding questions regarding validity, disposable earnings determinations, complying with out-of-state orders, priorities and allocation, etc.

Chapter 9 Summary

- **Bankruptcy Orders are governed by the Bankruptcy Code**
 - Issued under Chapter XIII of the Bankruptcy Act
 - Priority over any other claims against an employees wages including tax levies received before the order, other than child support.
 - Payments made the Bankruptcy Trustee
- **Student Loan Collections**
 - Maximum Garnishment is 15% of employees disposable earnings minus health insurance premiums
- **Other Federal Agency Dept Collection**
 - Maximum Garnishment is 15% or 30 x current federal minimum wage (see table 9.2)

Chapter 9 Summary

FLSA Restrictions on Deductions

- Minimum Wage

Other Deductions

- Voluntary Deductions
- Wage Assignments
- Union Dues
- Credit Union
- Charitable Contributions

Chapter 9 Review

Review Questions

1. How does Form 668-W define an employee's take-home pay that is subject to a federal tax levy?

- According to Form 668-W, when determining take-home pay the employer should allow the payroll deductions that were in effect when the levy notice was received.

2. What is the penalty for failing to withhold and remit payment as prescribed under an IRS notice of levy?

- Employers that fail to withhold and pay over an amount not exempt from levy after receiving Form 668-W are liable for the full amount required to be withheld, plus interest from the wage payment date. In addition, the employer is liable for a penalty equal to 50% of the amount recoverable by the IRS after the failure to withhold and remit.

3. What is the CCPA and how does it affect child support withholding?

- CCPA stands for Consumer Credit Protection Act. It provides the legal framework around which state child support withholding laws have been constructed and limits the amount that can be withheld for child support.

Chapter 9 Review

4. When is group health insurance deducted from an employee's gross wages in determining disposable pay?

- When the law of the state where the employee works requires that health insurance be deducted to determine the employee's disposable earnings

5. Does an employer have to withhold child support from payments to independent contractors?

- Yes. Payments to independent contractors constitute property subject to a child support withholding order.

6. How does the federal garnishment limit apply to multiple garnishments?

- The federal garnishment maximum applies no matter how many garnishments are received for an employee.

7. What is the amount that will be garnished from an employee's pay to satisfy a delinquent federal agency loan?

- The lesser of the amount stated on the garnishment order up to 15% of an employee's disposable earnings or the excess of the employee's disposable earnings over 30 times the federal minimum wage may be garnished to satisfy a delinquent federal agency loan unless the employee consents in writing to a higher amount.

Chapter 9 Review

8. Your state sets 50% of “disposable earnings” as the maximum for child support withholding. Your employee is not supporting another spouse and/or children, so the CCPA’s maximum is 60%. What percentage do you use?

- 50%, because it is more beneficial to the employee.

9. Name three voluntary deductions that are not subtracted from earnings to calculate disposable pay.

- Following are some of the voluntary deductions which are not subtracted from earnings in calculating disposable pay:
 - Health insurance premiums (unless state law says otherwise)
 - Life insurance premiums
 - Union dues
 - Retirement plan contributions
 - United Way contributions
 - Other charitable contributions
 - Savings plan deductions, etc.

10. What are medical child support orders?

- Under a medical child support order, a noncustodial parent is required to provide health insurance for the child by enrolling the child in the parent’s employer-sponsored health insurance plan. The order may also provide for automatic enrollment of the child if the parent fails to accomplish the enrollment.

Chapter 9 Review

11. What changes were enacted by OBRA '93 to make sure that both insurers and employers in each state comply in carrying out medical child support orders?

- Under these requirements, each state's laws must:
 - Prohibit insurers from denying medical insurance under a parent's coverage to a child because the child was born out of wedlock, is not a dependent on the parent's income tax return, or does not live with the parent or in the insurer's service area
 - Where a qualified medical child support order exists, require insurers and employers to allow the parent to enroll the child without restrictions, and to enroll the child themselves if the parent does not do it
 - Where a qualified medical child support order exists, require employers to withhold the employee's share of health insurance premiums and pay it to the insurer
 - Require insurers to make it easier for custodial parents to submit and collect on claims where the noncustodial parent's insurer carries the child's coverage
 - Permit state Medicaid agencies to garnish an employee's wages so the state can be reimbursed for payments made to the employee on behalf of a child who is eligible for Medicaid

Chapter 9 Review

1. You receive an IRS levy on an employee. You must receive Parts 3 and 4 filled out and signed by the employee before executing the levy.
 - **False** - You must use the table for married filing separate with no dependents if the employee does not submit a statement of filing status and dependents.
2. Creditor garnishments are always allowed up to 25% of disposable earnings.
 - **False** - The Consumer Credit Protection Act imposes a lower limit depending on the amount of the employee's disposable earnings in relation to the minimum wage, and various state laws also have more severe restrictions.
3. The amount of an employee's wages that is subject to a federal tax levy is the amount remaining after the exempt amount has been subtracted from the employee's "gross pay."
 - **False** - The exempt amount is subtracted from the employee's "take-home pay."
4. If an employee receives wages from more than one employer and only one receives a notice of levy, the employer must determine the exempt amount in the usual way unless the IRS notifies the employer that the exempt amount should be reduced because the other wages are not subject to levy.
 - **True**

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5. Withholding for a federal tax levy must continue until a release is received from the IRS because interest continues to accumulate on the amount that remains due after each levy payment is made.

- **True**

6. Employers failing to withhold and pay over amounts not exempt from levy after receiving Form 668-W are not liable for the full amount required to be withheld.

- **False** - Employers are liable for the full amount required to be withheld.

7. Orders to withhold wages for child support take priority over all other garnishments or attachments issued against the employee's wages except for tax levies received by the employer before the child support withholding order was issued.

- **True**

8. Disposable pay is the same as take-home pay.

- **False** - Voluntary deductions are not subtracted from gross pay to determine disposable earnings, which only take into account deductions required by law, but they are subtracted to determine take-home pay.

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9. An employer may be required to deduct a creditor garnishment from an employee's wages by order of the creditor.

- **False** - An employer is only required to garnish an employee's wages by order of a court, not the creditor.

10. Involuntary deductions are those over which an employer and employee have no control.

- **True**

11. For levies carrying over to the next calendar year, if an employee does not complete a new Part 3 of Form 668-W, the employer must use the exempt amount table for the year during which the most recent Part 3 statement of dependents and filing status was filed.

- **True**

12. Enforcement of child support orders is a joint federal and state responsibility.

- **True**

13. State child support withholding laws may impose lower limits on the amount that may be withheld than federal law.

- **True**

Chapter 9 Review

14. State law may allow employers to charge the employee an administrative fee for processing a wage garnishment order each pay period.

- **True**

15. If an employer fails to withhold child support for the amount required by the notice to withhold, it is liable for the full amount not withheld, up to the state and federal maximums.

- **True**

16. If an employer receives more than one child support withholding order for an employee, state law governs how they must be handled.

- **True**

17. An employer should not withhold child support from payments made to independent contractors.

- **False** - Employers must withhold child support from payments made to independent contractors when required to do so by order of a court or state child support enforcement agency.

Chapter 9 Review

18. Government employees are subject to a different set of child support withholding order requirements than those applicable to private sector employees.

- **False** - Government employees are subject to child and spousal support withholding orders on the same basis as private sector employees.

19. An employer can terminate an employee because of inconvenience caused in administering a creditor garnishment order.

- **False** - Employers are prohibited by the CCPA from terminating an employee because the employee's earnings have been subjected to garnishment for any one indebtedness.

20. Public sector employees' wages are exempt from creditor garnishment unless provided otherwise by state law.

- **True**

Chapter 9 Review

1. What form does an employer receive from the IRS to levy on an employee's salary?

- a. Form 668-D
- b. Form 916
- c. Form 668-W
- d. Form 2159

C

2. What is the threshold for requiring employers to report to employees their charitable contributions made through payroll deductions during a calendar year so the employee may claim the contribution on a personal income tax return?

- a. more than \$3,000 in total deductions for the year
- b. any amount deducted during the year
- c. more than \$250 deducted from a single paycheck
- d. more than \$600 in total deductions for the year

B

3. What law governs the maximum amount that can be withheld from an employee's wages for spousal or child support?

- a. Family Support Act of 1988
- b. Omnibus Budget Reconciliation Act of 1993
- c. Child Support Enforcement Amendments of 1984
- d. Consumer Credit Protection Act

D

Chapter 9 Review

4. An employee subject to a student loan garnishment loses her job and gets another one six months later. How long is it before the garnishment can be reinstated?

- a. 6 months from her date of reemployment
- b. 12 months from her date of reemployment
- c. 9 months from her date of reemployment
- d. No grace period is allowed

B

5. If all the following withholding orders are received at the same time, which must the employer deduct first?

- a. Creditor garnishment
- b. Student loan garnishment
- c. Federal tax levy
- d. State tax levy

C

6. How many parts does Form 668-W, *Notice of Levy on Wages, Salary and Other Income*, contain?

- a. Three parts
- b. Four parts
- c. Five parts
- d. Six parts

D

Chapter 9 Review

7. Under the CCPA, what is the maximum amount that can be withheld from an employee's wages for spouse or child support when the employee is not supporting another family and is 15 weeks in arrears for the support owed?

- a. 65% of gross pay
- b. 60% of disposable pay
- c. 65% of disposable pay
- d. 55% of disposable pay

C

8. When determining the amount to send to the IRS to satisfy a tax levy, the exempt amount is deducted from what amount?

- a. Gross pay
- b. Disposable pay
- c. Take-home pay
- d. Federal income tax withheld

C

9. When an employer receives Form 668-W from the IRS, when must the employer begin to withhold and remit?

- a. With the first payment of wages after receipt of Form 668-W
- b. Within 14 days after receipt of Form 668-W
- c. Within 30 days after receipt of Form 668-W
- d. Within 30 days after receipt of Form 668-W or the first date of payment of wages, whichever is later

A

Chapter 9 Review

10. When does an employer stop withholding for a federal tax levy?

- a. When Form 668-W is received
- b. When Form 668-D is received
- c. When Form 668-S is received
- d. When the IRS collection officer calls

B

11. Under the CCPA, what is the maximum amount that can be withheld from an employee's wages for spouse or child support when the employee is supporting another family and is not in arrears for the support owed?

- a. 50% of gross pay
- b. 50% of take-home pay
- c. 50% of disposable pay
- d. 55% of disposable pay

C

12. Which of the following deductions is not a voluntary deduction?

- a. Child support
- b. Charitable contributions
- c. Credit union deductions
- d. Life insurance premiums

A

Chapter 9 Review

13. When an employer receives a federal tax levy for an employee who is paid on a one-time basis or a recurring but irregular basis, how is the exempt amount from levy determined?

- a. the employee is entitled to the weekly exempt amount for the entire time to which the payment is attributable
- b. the employee is entitled to the weekly exempt amount for each week to which the payment is attributable
- c. the employee is entitled to the daily exempt amount for each day to which the payment is attributable
- d. the employee is entitled to the monthly exempt amount for the entire time to which the payment is attributable

B

14. Which of the following laws restricts states in their regulation of creditor garnishments?

- a. Fair Labor Standards Act
- b. Omnibus Budget Reconciliation Act of 1993
- c. Family Support Act of 1988
- d. Consumer Credit Protection Act

D

15. Under federal law what is the maximum amount of an employee's "disposable earnings" that can be garnished to repay a debt to a creditor?

- a. 25%
- b. 27%
- c. 50%
- d. 65%

A

Chapter 9 Review

1. You implement a child support withholding order. Your employee complains that it is the wrong amount. You verify that you are withholding the amount stated in the order correctly. What should you do?

- Continue withholding according to the order unless and until you receive notification in writing from the court or issuing agency that a change is necessary

2. John Frazier's gross pay is \$1,000 per week. On August 1, 2019, his employer receives a Form 668-W stating that a tax levy was being issued against John's wages for \$8,000. John claims single with 1 dependent on Part 3 of the form. As of August 1, John had the following deductions:

Federal income tax: \$110.00	State income tax: 30.00
Social security tax: 62.00	Medicare tax: 14.50
§401(k) plan: 40.00	Total \$256.50

How much of John's wages per pay period are subject to the tax levy? \$ _____

- John's take-home pay:, \$743.50 (\$1,00.00 - \$256.50)
- Exempt amount: -315.39 (Taken from 2019 table)
- Amount subject to levy: \$428.11

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3. Matthew Winters is married and files jointly, claiming 4 dependents on Part 3 of Form 668-W for a tax levy being issued against his semimonthly wages of \$2,500. Matthew's employer receives the notice on September 14, 2019. Prior to this period, Matthew's deductions for each pay period consisted of:

Federal income tax: \$200.00

State income tax: 100.80

Social security tax: 148.80

Medicare tax: 34.80

§401(k) plan: 80.00

Health ins. (pre-tax) 100.00

Total \$664.40

What amount of Matthew's wages per pay period is subject to the tax levy? \$ _____

- Matthew's take-home pay: \$1,835.60 (\$2,500.00 - \$664.40)
- Exempt amount: -1,716.67 (Taken from 2019 table)
- Amount subject to levy: \$118.93

Chapter 9 Review

4. a. David Christensen receives a salary of \$10,500 each month. On September 3, 2019, David's employer receives a Form 668-W stating that a federal tax levy was being issued against David's wages for \$30,000. David claims married filing jointly with 2 dependents on Part 3 of the form. As of September 3, 2019, David had the following deductions:

Federal income tax: \$1,200.00	State income tax: 307.20
Local income tax: 204.80	Social security tax: 647.90
Medicare tax: 151.53	§401(k) plan (2% of salary): 210.00
Health insurance (pre-tax): 50.00	Total: \$2,671.43

What amount of David's wages per pay period is subject to the tax levy? \$ _____

- David's take-home pay: \$7,828.57 (\$10,500 - \$2,671.43)
- Exempt amount: - 2,733.33 (Taken from 2019 table)
- Amount subject to levy: \$5,095.24

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4. b. On November 1, 2019, David gave his employer a new Form 668-W, Part 3 claiming married with 3 dependents. He also increases his elective deferral in the §401(k) plan to 4% of his salary. His health insurance deduction increases from \$50 to \$70 because of a premium increase. As a result, his deductions have changed to the following amounts:

Federal income tax: \$1,065.00	State income tax: 300.30
Local income tax: 200.20	Social security tax: 646.66
Medicare tax: 151.24	§401(k) plan (4% of salary): 420.00
Health insurance (pre-tax): 70.00	Total: \$2,853.40

What amount of David's wages is now subject to tax levy as a result of the changes? \$_____

- David's new take-home pay: \$7,856.60 ($\$10,500 - \$2,853.40 + \210.00)
- Exempt amount: -3,083.33 (Taken from 2019 table)
- Amount subject to levy: \$4,773.27

Note: David's §401(k) deduction changed from \$210 to \$420 when he changed his elective deferral rate from 2% to 4%. His health insurance deduction increased from \$50 to \$70 when the premiums were raised. In figuring David's take-home pay, the employer cannot deduct the \$210 increase in the §401(k) deduction because it was the result of a voluntary increase. The \$20 increase in the health insurance deduction may be counted because it was the result of an increase in the cost of coverage, not a change in coverage chosen by the employee.

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c. What is David's net pay as a result of these changes? \$ _____

- David's net pay after changes: Net pay = Exempt amount - §401(k) deduction increase Net pay = \$3,083.33 - \$210.00 = \$2,873.33

5. Mindy earns \$8.50 per hour and is paid weekly during 2019. Last pay period she worked 40 hours. Her deductions include:

Federal income tax: \$19.00	State income tax: 1.90
Social security tax: 21.08	Medicare tax: 4.93
U.S. Savings Bonds: 15.00	

What is Mindy's disposable pay? \$ _____

Gross pay (\$8.50 x 40):	\$340.00
Federal income tax:	- 19.00
State income tax:	- 1.90
Social security tax:	- 21.08
Medicare tax:	<u>- 4.93</u>
Disposable earnings:	\$293.09

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6. Barry earns \$7.50 per hour for a regular 40-hour week in 2019. Last week Barry worked 48 hours. His regular deductions include:

Federal income tax: \$24.00

Social security tax: 24.18

Child support: 25.00

State income tax: 4.80

Medicare tax: 5.66

What is Barry's disposable pay? \$_____

- Regular pay ($\$7.50 \times 48$): \$360.00
- Overtime premium: +30.00
- Gross pay: 390.00
- Federal income tax: - 24.00
- State income tax: - 4.80
- Social security tax ($\$390 \times 6.2\%$): - 24.18
- Medicare tax ($\$390 \times 1.45\%$): - 5.66
- Disposable earnings: \$330.74

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7. Terry earns \$10.00 per hour for a 40-hour week in 2019 and is paid biweekly. During the last pay period, Terry worked 43 hours in the first week and 39 hours in the second week. His regular deductions include:

Federal income tax: \$56.00	State income tax: 11.20
Social security tax: 51.77	Medicare tax: 12.11
Creditor garnishment: 50.00	Life insurance premium: 10.00
Union dues: 5.00	

What is Terry's disposable pay? \$ _____

• Week one: Regular pay ($\$10.00 \times 43$):	\$430.00	Week two: Regular pay ($\$10.00 \times 39$):	<u>390.00</u>
• Overtime premium ($0.5 \times \$10 \times 3$):	<u>+ 15.00</u>		
• Total:	445.00		
• Total earnings (2 weeks):	835.00		
• Federal income tax:	-56.00		
• State income tax:	- 11.20		
• Social security tax ($\$835 \times 6.2\%$):	- 51.77		
• Medicare tax ($\$835 \times 1.45\%$):	<u>- 12.11</u>		
• Disposable earnings:	\$703.92		

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8. Employee Jane's disposable earnings for the week are \$320. Her employer receives a creditor garnishment order requiring that \$250 be withheld on February 1, 2019. What is the amount of Jane's disposable earnings that can be garnished under federal law? \$_____

- The lesser of: $\$320.00 \times 25\% = \80.00 or $\$320 - \$217.50 = \$102.50$
- Therefore, the maximum amount of Jane's disposable earnings that can be garnished is \$80.00.

9. Employee Don is paid \$2,600 on the 15th and last day of each month. His regular deductions include:

- | | | | |
|------------------------------------|--------------------------|-------------------------------|--------------------------------|
| • Federal income tax: \$325.00 | State income tax: 112.50 | Social security tax: 159.34 | Medicare tax: 37.27 |
| • Child support: 100.00 | Tax levy: 50.00 | Life insurance premium: 30.00 | United Way contribution: 25.00 |
| • Health insurance (pre-tax):30.00 | Savings: 50.00 | | |

On February 1, 2019, Don's employer receives a creditor garnishment order requiring \$500 to be withheld. Calculate the maximum amount of Don's disposable earnings that can be withheld for this garnishment under federal law. \$_____

Gross pay:	\$2,600.00
Federal income tax:	- 325.00
State income tax:	- 112.50
Social security tax ($\$2,570 \times 6.2\%$):	- 159.34
Medicare tax ($\$2,570 \times 1.45\%$):	<u>- 37.27</u>
Disposable pay:	\$1,965.89

The lesser of: $\$1,965.89 \times 25\% = \491.47 or $\$1,965.89 - \$471.25 = \$1,494.64$

Therefore, the maximum amount of Don's disposable earnings that can be garnished is \$491.47. However, since \$150 of Don's disposable earnings are already subject to a child support withholding order and a federal tax levy, only \$341.47 is subject to garnishment ($\$491.47 - \150).