



Employers Should Always Respond to a Wage Garnishment Order

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Wage garnishment is one of the tools that a creditor often uses to collect a money judgment it obtains against an individual debtor. This procedure is used to direct an employer to withhold funds from the wages of an employee, i.e. the individual debtor, to pay the amount of the judgment to the creditor.

Under the Kentucky and Ohio statutes governing wage garnishments, an order of garnishment received by an employer creates a lien on all disposable and nonexempt earnings earned by the specific employee at the time the employer is served with the order of garnishment. Both Kentucky and Ohio follow the federal wage garnishment law which allows a maximum withholding of either 25% of the employee's disposable earnings during a pay period or the amount by which the disposable earnings exceeds 30 times the federal minimum wage, whichever is less. In addition, both states' garnishment forms include a section guiding the employer through this calculation of disposable earnings.

Because only up to 25% of an employee's earnings are subject to a wage garnishment, there can only be one garnishment in effect at a time. Thus, if a second garnishment is received for the same employee, the second garnishment will become effective immediately after the first garnishment is paid in full.

It is very important for an employer to timely respond to a wage garnishment order. Even if the employee no longer works at the company or if the employee does not have sufficient disposable earnings to garnish, in Kentucky, a response should still be sent to the attorney that issued the garnishment indicating why the funds are not being withheld. In Ohio, an answer to the garnishment should also be filed with the Court that issued the garnishment. An employer has 20 days (or 23 days if the garnishment is served by mail) to respond to a garnishment issued by a Kentucky court and 5 business days to respond to a garnishment issued by an Ohio court.

There can be adverse action taken against an employer who fails to timely respond to a wage garnishment or fails to withhold the appropriate funds from an employee's earnings. One possible adverse action could result in a judgment entered by the court against the employer for past due wages. The employer would then be required to pay the judgment creditor directly all amounts it failed to withhold from the employee's pay. This is certainly an action any employer would prefer to avoid so it is a best practice to respond to any wage garnishment as soon as it is received and to consult the company's attorney with any questions regarding complying with a wage garnishment order.