



How to Handle a Wage Garnishment

Garnishment is a drastic measure for collecting a debt. A court order of garnishment allows a creditor to take the property of a debtor when the debtor does not possess the property. Garnishment is regulated by statutes, and is usually reserved for the creditor who has obtained a judgment, or court order, against the debtor. There are many different kinds of garnishments. The most common are the garnishment orders that are done through the court proceedings due to non payment. Another one that is prevalent is the tax garnishment due to lack of paying back taxes. The biggest mistake is knowing which one is to be used first and what supersedes the other. Also setting you limits on time and making sure you get the proper paperwork out to all parties involved and sent timely and certified to protect your company. Any of these things done incorrectly and your company could become the payee of the garnishment order.

1. First step after receiving the Garnishment.

- A. Employer makes a copy and gives it to the Employee (hand delivered is necessary.)
- B. Make sure it has a stamped copy. If it is not stamped by the clerk then you need to call the creditor and demand one. Only honor stamped documents.

- C. In your answer you will have to verify that you mailed them or hand delivered them.

2. Answer Deadline

- A. You only have 7 days after the end of the Employee's current pay period or 30 days from the date of service of the summons, whichever is earliest.
- B. Once you have filled out the answer you must mail it to the county clerk listed in the documents provided and to the judgment creditor (usually the collections firm.)
- C. You must send all copies of answer certified for proof of delivery.

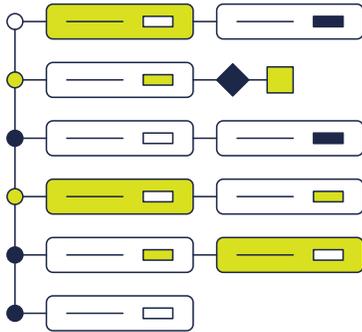
3. Failing to Answer

- A. The creditor will usually contact the employer if your answer is late.
- B. The creditor may file a Motion to Compel and ask for the judge to issue an Order compelling the employer to answer by a certain date.
- C. Failure to answer after this again may result in the employer being responsible for the full judgment balance.

4. Maximum Garnishment Amounts

- A. 25% of net (after deductions required by law) paycheck-this is used almost always.
- B. The amount by which your disposable earnings for the week exceed 30 times the federal minimum hourly wage (currently \$7.25/hour).





5. End of Garnishment

- A. The judgment is paid in full
- B. Always call for payoff
- C. Always verify with the judgment Creditor's attorney.
- D. The Employee no longer works there. (Don't forget to withhold from the last paycheck no matter how small.)
- E. The judgment is vacated (removed by the judge) or modified.
- F. You get notice that the Garnishment Summons is dismissed.
- G. Expiration of 180 days from the date of service of the garnishment to the employer, not your company.
 1. You don't technically stop on the 180th day; it really just let's you know what pay period will be the last. If the pay period is the 1st through the 15th and the 180th day is on the 4th you still have to withhold earnings up to the 15th but that is the final time unless you received a refilled garnishment resetting the 180 days again.
 2. This is not the case when your employee has multiple garnishments. The second garnishment gets a fresh 180 days after the first expires.

6. Child Support, Student Loans, and Unpaid Taxes

- A. Child Support Up to 50% of employee's net paycheck may be garnished to pay child support if they are currently supporting a spouse or a child who isn't the subject of the order. If they aren't supporting a spouse or child, up to 60% of

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their earnings may be taken. An additional five percent may be garnished for support payments over 12 weeks in arrears.

- B. Student Loans. If the employee is in default on a federal student loan, the U.S. Department of Education or any entity collection for this agency can garnish their wages without first getting a court judgment. This is called an administrative garnishment. The most that the Department of Education can garnish is 15% of their disposable income, but not more than 30 times the minimum wage.
- C. If you get a student loan garnishment requiring 15% of the paycheck and then a judgment creditor asking 25%, you can only give 10% to the judgment creditor for a total of 25% between the two.
- D. Unpaid Taxes. The federal government can garnish the employee's wages if they owe back taxes, even without a judgment. The amount it can garnish depends on how many dependents they have and their deduction rate. Certain state and local governments may also be able to garnish their wages to collect unpaid state and local taxes.