HR knowledge

Ask HR Knowledge: How do we handle court-ordered wage garnishments?

When wages are garnished, an employer must withhold a portion of a person's earnings for the payment of a debt. Most garnishments are made under a local court order that creditors file a few months after debtors fall behind on payments.

By the time you, as an employer, receive the garnishment order, the court should have notified the employee about the action. No written authorization by the employee is required by federal law before garnishing his or her wages.

You'll likely see garnishment as a burden, especially if you must navigate different laws for the state the employee lives in, but you can't just ignore it. Indeed, if you don't garnish wages, you may become liable for the employee's debt, depending on the situation.

Know the rules

The federal Consumer Credit Protection Act (CCPA) limits the employee's earnings that may be garnished. It must be "disposable earnings," the amount that's left after deductions are made — state, federal, and local income taxes, Social Security tax, and state unemployment insurance.

And what is meant by earnings? Wages, salaries, commissions, bonuses, and pension or retirement plans are included. Tips are generally not considered earnings by CCPA definitions. But voluntary deductions — union dues, health and life insurance premiums, and retirement plan contributions, except those required by law — may not be subtracted from gross earnings when calculating disposable earnings under CCPA.

Also, the maximum amount in garnishment withheld in a weekly period for consumer debt may not exceed the lesser of 25% of the employee's disposable earnings OR the amount by which an employee's disposable earnings are greater than 30 times the federal minimum wage. Does your pay period cover more than a week? You must use multiples of weekly restrictions to calculate the maximum amounts that may be garnished.

Misconceptions about garnishing wages

When people hear the term “wage garnishment,” many still make assumptions that the employee owes spousal and child support. However, many wage garnishments are for debtors delinquent on taxes, credit cards, medical bills, and student loans, not just support payments. In fact, Americans had more than $176 million garnished in wages between October 1 and December 31 in 2015, to pay back their student loan debts.

Know your responsibilities

As an employer, you must honor an income withholding order for child support. You must withhold child support before all other garnishments, except an IRS tax levy entered before the date the underlying child-support order was established.

An employee cannot be discharged because wages have been garnished for any one debt. There also are limits on the amount of an employee's earnings that may be garnished in any one week. Creditors are increasingly turning to court-ordered wage garnishments to recoup delinquent accounts. An unfortunate trend is toward fraudulent debt claims.

States have exemption laws to prevent creditors from pushing debtors into poverty, and they vary from state to state, but generally they are designed to preserve subsistence wages and essential property from seizure by creditors and to deter predatory lending practices and fraudulent claims.

Obviously, it's a good idea to let the court know if your company cannot legally comply with the order because of the above limits or any other reasons. Wage garnishment errors can be a costly mistake for employers.

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