

## Additional Information on Income Withholding for Employer

**Binding Effect:** The Order/Notice is binding on you until further notice by the State. When an employee leaves your firm, you must **promptly** notify the circuit clerk and provide the employee's last known address and new employer's name and address, if known.

**Information Required:** Employer must include all the following information for each employee when sending withholding payment to the circuit clerk: employee's/obligor's name, social security number, court case number, MACSS case ID number if provided on the front of the wage withholding form, and the date that the amount was withheld from the employee's pay.

**Disposable Earnings:** 15 U.S.C., Section 1672, **Federal Consumer Credit Protection Act** defines "earnings" as "compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program;" and defines "disposable earnings" as that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld;" and defines "garnishment" as "any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt."

**Please note:** In a case where an employee has authorized additional withholding tax deductions beyond those required by law, or has authorized other voluntary deductions, such as credit union payments, stock purchase plans, savings bond deductions, repayment of debt to employer, charitable contributions, etc., such payments **may not be deducted** from gross earnings when computing "disposable earnings."

**Priority:** Withholding under this order/notice has priority over any other legal process under state law against the same income. Federal tax levies in effect before receipt of this order have priority unless otherwise agreed to by the IRS.

**Withholding Limits:** Employer should withhold the amount noted on the front page of the Notice of Income Withholding/Voluntary Income Assignment form. However, you may not withhold more than the limits imposed by the Federal Consumer Credit Protection Act (14 U.S.C. Section 1673(b)) or current month plus arrearage amount equal to 50% of current support (Section 452.350 RSMo). Whichever results in less money being withheld.

### **Federal Limit:**

If The employee/obligor has a second family to support, the Federal limit is 50% of aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as State, Federal and local taxes, Social Security and Medicare taxes. Deductions for union dues, insurance or pursuant to a state court order or write are not allowable deductions for the purpose of calculating ADWE.

If the employee or obligor does not support a second family, the limit increases to 60%.

If employee/obligor owes arrearage that are 12 weeks or older, another 5% is added to either the 50% or 60% limit, for a total of 55% or 65%.

**Combining Payments:** You may combine withheld amounts from more than one employee/obligor's income in a single payment to each appropriate agency requesting withholding. Separately identify the portion of the single payment that is attributable to each employee/obligor.

**No Pay Cycle Variance:** You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered support cycle, use the following to determine how much to withhold:

### **If you pay weekly, and the order's payment schedule is:**

- \* monthly, divide ordered amount by 4.33;
- \* semi-monthly, divide ordered amount by 2.17;
- \* biweekly, divide ordered amount by 2.0.

### **If you pay biweekly and the order's payment schedule is:**

- \* monthly, divide ordered amount by 2.17;
- \* semi-monthly, divide ordered amount by 1.08;
- \* weekly, multiply ordered amount by 2.0.

### **If you pay semi-monthly and the order's payment schedule is:**

- \* monthly, divide ordered amount by 2.0;
- \* biweekly, multiply ordered amount by 1.08;
- \* weekly, multiply ordered amount by 2.17.

### **If you pay monthly and the order's payment schedule is:**

- \* semi-monthly, multiply ordered amount by 2.0;
- \* biweekly, multiply ordered amount by 2.17;
- \* weekly, multiply ordered amount by 4.33.

**Multiple Orders on an Individual Employee:** You may receive more than one wage withholding order for one employee. The combined total of the current support obligations may exceed applicable wage withholding limitations. If so, you must use a proportionate share formula to determine how much of the employee's available pay is to be credited to each order. To do this, first add the current support obligations together to obtain a sum. Second, divide each current support obligation amount individually by that sum and note the percentages obtained. Third, multiply the available income by the percentages to obtain the amount of income to be credited to each obligation. **If enough available income exists to satisfy the current support obligations in full**, but the combined total of the arrearage payments exceeds the remaining available income, use this proportionate share formula to figure the arrearage payments also (Sections 452.350(12) and 454.505(7) RSMo).

**Two examples of the proportionate share formula:** You receive 2 child support withholding orders for one employee. Both orders limit the withholding to 50% of net disposable income. The employee's net disposable income is \$347 per week; therefore, \$173.50 per week is available for support withholding.

**Example 1**

Order A: \$100 per week current support

Order B: \$150 per week current support

Total current support: \$250 per week

There is not enough disposable income to meet the current support.

1. You will compute the proportionate share of each order:
  - \* Order A is 40% of the total support  
( $100 \div 250 = 40\%$ )
  - \* Order B is 60% of the total support  
( $150 \div 250 = 60\%$ )
2. You will withhold and pay to clerk:
  - \* \$ 69.40 for Order A ( $173.50 \times .40$ ).
  - \* \$104.10 for Order B ( $173.50 \times .60$ ).
3. You will pay \$173.50 to the employee

**Example 2**

Order A: \$50 per week current support & \$25 per week for arrearage (i.e. overdue support).

Order B: \$75 per week current support & 30 per week for arrearage.

Total current support: \$125 per week

Total arrearage: \$55 per week

There is enough disposable income to meet current support.

1. You will withhold and pay to the clerk:
  - \* \$50 for Order A current support.
  - \* \$75 for Order B current support.

**\$ 48.50 remains for arrearage.**
2. You will compute the proportionate share of arrearage:
  - \* Order A is 45% of total arrearage  
( $25 \div 55 = 45\%$ )
  - \* Order B is 55% of total arrearage  
( $30 \div 55 = 55\%$ )
3. You will withhold and pay to clerk:
  - \* \$21.83 for Order A ( $48.50 \times .45$ ).
  - \* \$26.67 for Order B ( $48.50 \times .55$ ).
4. You will pay \$173.70 to the employee.

**NOTE:** You may receive an order to withhold earnings to cover premiums for a health benefit plan. The withholding priority then becomes 1) current support, 2) health insurance premium, and 3) arrearage payment. If the sum of the premium amount and the current support amount exceed applicable wage withholding limitations, do not withhold the premium amount.

**Section 454.505(8) RSMo**, declares that your compliance with this order cannot subject you to liability to the employee or to any other person claiming rights derived from the employee for wrongful withholding. However, an employer who fails or refuses to comply with this order shall be liable to the party holding the support rights for the total amount the employer should have withheld.

**Section 454.505(10) RSMo**, states "An employer shall not discharge, or refuse to hire or otherwise discipline an employee as a result of an order to withhold and pay over certain money authorized by this section.;" The statute further provides that violation may subject employer to civil contempt and ordered by the court to rehire or rescind any wrongful disciplinary action. In addition, the employer may have to pay back wages, costs, attorney's fees and liable for the amount that should have been withdrawn.

**Section 536.095 RSMo**, provides that this order is enforceable by civil contempt proceedings, which could result in fine and/or imprisonment.