



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-100

For business meeting on: May 12, 2023

Title

Rules and Forms: Technical Revisions to
Wage Garnishment Forms

Rules, Forms, Standards, or Statutes Affected

Revise forms WG-002, WG-003, WG-030

Recommended by

Judicial Council staff
James Barolo, Attorney
Legal Services

Agenda Item Type

Action Required

Effective Date

September 1, 2023

Date of Report

April 19, 2023

Contact

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Executive Summary

Judicial Council staff recommend the revision of three Judicial Council forms to reflect statutory amendments to the amount of a judgment debtor's earnings that may be garnished under an earnings withholding order.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective September 1, 2023, revise the following forms to reflect recent changes to Code of Civil Procedure section 706.050 as enacted in Senate Bill 1477 (Stats 2022, ch. 849):

- *Earnings Withholding Order* (form WG-002);
- *Employee Instructions* (form WG-003); and
- *Earnings Withholding Order for Elder or Dependent Adult Financial Abuse* (form WG-030).

The revised forms are attached at pages 3–8. SB 1477 is available as Link A under Attachments and Links.

Relevant Previous Council Action

The council last revised forms WG-002 and WG-030 effective July 1, 2016, to reflect statutory amendments to the method of computing the amount of a judgment debtor's earnings that may be garnished under an earnings withholding order. The council last revised form WG-003 effective January 1, 2012, to reflect statutory changes to wage garnishment exemptions.

Analysis/Rationale

To determine the appropriate amount of earnings to garnish under an earnings withholding order, a series of calculations must be performed. (Code Civ. Proc., § 706.050.) Such calculations use the applicable minimum wage, the debtor's earnings, and statutory multipliers. The council's wage garnishment forms provide the statutory multipliers and contain step-by-step instructions for the calculations. Senate Bill 1477 amended the statutory multipliers used in the calculations, effective September 1, 2023. Accordingly, this proposal revises the council's forms to update the multipliers and sets the effective date for the revised forms as September 1, 2023.

Policy implications

The proposed form revisions simply implement statutory amendments on existing council forms to ensure the forms remain consistent with law. Therefore, the policy implications borne out of this proposal are the result of statutory changes and not form revisions.

Comments

These proposals were not circulated for public comment because they are minor noncontroversial revisions to implement changes in law, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

The alternative to updating the wage garnishment forms using the new statutory multipliers would be *not* to update them. Staff did not consider this option because taking no action would have left mandatory forms inconsistent with the law as of September 1, 2023.

Fiscal and Operational Impacts

If a court provides free copies of these forms to parties, it will incur costs to print or duplicate the forms. Courts may also incur self-help training costs regarding the new statutory multipliers. However, the revisions are required to make the forms consistent with current law.

Attachments and Links

1. Forms WG-002, WG-003, and WG-030, at pages 3–8
2. Link A: SB 1477,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1477

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	LEVYING OFFICER (Name and address): <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">3/15/2023</h3> <h2 style="margin: 0;">NOT APPROVED BY THE JUDICIAL COUNCIL</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY: _____ ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
EARNINGS WITHHOLDING ORDER (Wage Garnishment)	LEVYING OFFICER FILE NO.: _____ COURT CASE NO.: _____
EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.	
EMPLOYER: Enter the following date to assist your recordkeeping. Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):	

TO THE EMPLOYER REGARDING YOUR EMPLOYEE:

Name and address of employer

Name and address of employee

Social Security No. on form WG-035 unknown

1. A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (see instructions on reverse of this form). Pay the withheld sums to the **levying officer** (name and address above).

If the employee works for you now, you must **give the employee a copy of this order and the *Employee Instructions* (form WG-003)** within 10 days after receiving this order.

Complete both copies of the form *Employer's Return* (form WG-005) and mail them to the levying officer within 15 days after receiving this order, whether or not the employee works for you.

2. The total amount due is: \$

Count 10 calendar days from the date when you received this order. If your employee's pay period ends before the 10th day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that 10th day.

Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.

3. The judgment was entered in the court on (date):

The judgment creditor (if different from the plaintiff) is (name):

4. The **INSTRUCTIONS TO EMPLOYER** on the reverse tell you how much of the employee's earnings to withhold each payday and answer other questions you may have.

Date:

(TYPE OR PRINT NAME)

 (SIGNATURE)
 LEVYING OFFICER REGISTERED PROCESS SERVER

(Employer's Instructions on reverse)

INSTRUCTIONS TO EMPLOYER ON EARNINGS WITHHOLDING ORDERS

WG-002

The instructions in paragraph 1 on the reverse of this form describe your early duties to provide information to your employee and the levying officer.

Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the withholding period.

The withholding period is the period covered by the *Earnings Withholding Order* (this order). The withholding period begins 10 calendar days after you receive the order and continues until the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice), is withheld.

It may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *Employer's Return* (form WG-005) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

The *Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one *Earnings Withholding Order* during a withholding period, review that form (*Employer's Return*) for instructions.

If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the Earnings Withholding Order to the levying officer with a statement of the reason it is being returned.**

WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.

WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, 706.050, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based. Inquiries about the federal law will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

COMPUTATION INSTRUCTIONS

California law provides how much earnings to withhold, if any, for different amounts of disposable earnings and different pay periods, and takes into consideration different minimum wage amounts. The method of calculation is at Code of Civil Procedure section 706.050 and is described in the column to the right. You may also look on the California Courts Self-Help website for assistance in determining the maximum withholding amounts for different amounts of disposable income, for different pay periods, and with different minimum wage amounts. The information is at www.courts.ca.gov/self-help-employerwagecivil.htm.

THESE COMPUTATION INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.

State law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

(A) To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), first compute the employee's *disposable earnings*.

Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings because they are not paid by the employer.

Disposable earnings are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

(B) After the employee's disposable earnings are known, to determine what amount should be withheld, you may look to the statute, follow the directions below in (C), or seek assistance on the California Courts Self-Help website at www.courts.ca.gov/self-help-employerwagecivil.htm. Note that you also need to know the amount of the minimum wage in the location where the employee works.

(C) Calculate the maximum amount that may be withheld from the employee's disposable earnings, which is the *lesser* of the following two amounts:

- 20 percent of disposable earnings for that week; or
- 40 percent of the amount by which the employee's disposable earnings that week exceed the applicable minimum wage. If there is a local minimum wage in effect in the location where the employee works that exceeds the state minimum wage at the time the earnings are payable, the local minimum wage is the applicable minimum wage.

To calculate the correct amount, follow the steps below:

Step 1: Determine the applicable minimum wage per pay period.

- For a daily or weekly pay period, multiply the applicable hourly minimum wage by 48.
- For a biweekly pay period, multiply the applicable hourly minimum wage by 96.
- For a semimonthly pay period, multiply the applicable hourly minimum wage by 104.
- For a monthly pay period, multiply the applicable hourly minimum wage by 208.

Step 2: Subtract the amount from Step 1 from the employee's disposable earnings during that pay period.

Step 3: If the amount from Step 2 is less than zero, do not withhold any money from the employee's earnings.

Step 4: If the amount from Step 2 is greater than zero, multiply that amount by 0.40.

Step 5: If the amount from Step 4 is lower than 20 percent of the employee's disposable earnings, withhold this amount. If it is greater than 20 percent of the employee's disposable earnings, withhold 20 percent of the disposable earnings.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

IMPORTANT WARNINGS

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.
IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!

DRAFT 3/2/2023
NOT APPROVED BY THE

JUDICIAL COUNCIL
~~NOTICE~~

EMPLOYEE INSTRUCTIONS

-NOTICIA-

**IMPORTANT LEGAL NOTICE TO EMPLOYEE
 ABOUT EARNINGS WITHHOLDING ORDERS**
 (Wage Garnishment)

The **Earnings Withholding Order** requires your employer to pay part of your earnings to the sheriff or other levying officer. The levying officer will pay the money to a creditor who has a court judgment against you. The information below may help you protect the money you earn.

**NOTICIA LEGAL IMPORTANTE RESPECTO
 A LAS ÓRDENES DE RETENCIÓN DE SUELDO**

La **Orden de Retención de Sueldo** requiere que su empleador pague una parte de su sueldo a un oficial de embargo. El oficial le pagará el dinero retenido a su acreedor que ha conseguido una decisión judicial en contra de usted. Pida usted que un amigo o su abogado le lea este papel oficial. Esta información le puede ayudar a proteger su sueldo.

CAN YOU BE FIRED BECAUSE OF THIS?

NO. You cannot be fired unless your earnings have been withheld before for a different court judgment. If this is the first judgment for which your wages will be withheld and your employer fires you because of this, the California Labor Commissioner, listed in the phone book of larger cities, can help you get your job back.

HOW MUCH OF YOUR PAY WILL BE WITHHELD?

The reverse of the Earnings Withholding Order (abbreviated in this notice as EWO) that applies to you contains Employer Instructions. These explain how much of your earnings can be withheld. Generally, the amount is about 20% of your take home pay until the amount due has been withheld. The levying officer will notify the employee of an additional assessment charged for paying out money collected under this order and that amount will also be withheld.

If you have trouble figuring this out, ask your employer for help.

IS THERE ANYTHING YOU CAN DO?

YES . There are several possibilities.

1. See an attorney. If you do not know an attorney, check with the lawyer referral service or the legal aid office in your county (both are listed in the yellow pages under "Attorneys").
 An attorney may be able to help you make an agreement with your creditor, or may be able to help you stop your earnings from being withheld. You may wish to consider bankruptcy or asking the bankruptcy court to help you pay your creditors. These possibilities may stop your wages from being withheld.
 An attorney can help you decide what is best for you. Take your **EWO** to the attorney to help you get the best advice and the fastest help.
2. Try to work out an agreement yourself with your creditor. Call the creditor or the creditor's attorney, listed on the **EWO**. If you make an agreement, the withholding of your wages will stop or be changed to a smaller amount you agree on. *(See item 4 on the reverse for another way to make an offer to your creditor.)*
3. You can ask for an EXEMPTION. An exemption will protect more, or maybe even all of your earnings. You can get an exemption if you need your earnings to support yourself or your family, **but you cannot get an exemption if:**
 - a. You use some of your earnings for luxuries and they aren't really necessary for support; **OR**
 - b. You owe money to an attorney because of a court order in a family case; **OR**
 - c. You owe the debt for past due child support or spousal support (alimony); **OR**
 - d. You owe the debt to a former employee for wages.

HOW DO YOU ASK FOR AN EXEMPTION?

(See the other side of this form for instructions about claiming an exemption.)

HOW DO YOU ASK FOR AN EXEMPTION?

1. Call or write the levying officer for three (3) copies each of the forms called "Claim of Exemption" and "Financial Statement." These forms are free. The name and address of the levying officer are in the big box on the right at the top of the **EWO**.
2. Fill out both forms. On the forms are some sentences or words which have boxes in front of them. The box means the words which follow may not apply to your case. If the words do apply, put a check in the box.
Remember, it is **your** job to prove with the Financial Statement form that your earnings are needed for support. Write down the details about your needs.
3. For example, if your child has special medical expenses, tell which child, what illnesses, who the doctor is, how often the doctor must be visited, the cost per visit, and the costs of medicines. These details should be listed in item 6. If you need more space, put "See attachment 6" and attach a typed 8½ by 11 sheet of paper on which you have explained your expenses in detail.
4. You can use the Claim of Exemption form to make an offer to the judgment creditor to have a specified amount withheld each pay period. Complete item 3 on the form to indicate the amount you agree to have withheld **each pay day during the withholding period**. (Be sure it's less than the amount to be withheld otherwise.) If your creditor accepts your offer, he will not oppose your claim of exemption. (See (1) below.)
5. Sign the Claim of Exemption and Financial Statement forms. Be sure the Claim of Exemption form shows the address where you receive mail.
6. Mail or deliver two (2) copies of each of the two forms to the levying officer. Keep one copy for yourself in case a court hearing is necessary.
Do not use the Claim of Exemption and Financial Statement forms to seek a modification of child support or alimony payments. These payments can be modified only by the family law court that ordered them.
FILE YOUR CLAIM OF EXEMPTION AS SOON AS POSSIBLE FOR THE MOST PROTECTION.

ONE OF TWO THINGS WILL HAPPEN NEXT

- (1) The judgment creditor will not oppose (object to) your claim of exemption. If this happens, after 10 days the levying officer will tell your employer to stop withholding or withhold less from your earnings. The part (or all) of your earnings needed for support will be paid to you or paid as you direct. And you will get back earnings the levying officer or your employer were holding when you asked for the exemption.
—OR—
- (2) The creditor will oppose (object to) your claim of exemption. If this happens, you will receive a Notice of Opposition and Notice of Hearing on Claim of Exemption, in which the creditor states why your exemption should not be allowed. A box in the middle of the Notice of Hearing tells you the time and place of the court hearing which will be in about ten days. Be sure to go to the hearing if you can.
If the judgment creditor has checked the box in item 3 on the Notice of Hearing on Claim of Exemption, the creditor will not be in court. If you are willing to have the court make its decision based on your Financial Statement and the creditor's Notice of Opposition, you need not go to the hearing.
The Notice of Opposition to Claim of Exemption will tell you why the creditor thinks your claim should not be allowed. If you go to the hearing, take any bills, paycheck stubs, canceled checks, or other evidence (including witnesses) that will help you prove your Claim of Exemption and Financial Statement are correct and your earnings are needed to support yourself or your family.
Perhaps you can even prove the Notice of Opposition is wrong. For example, perhaps the Notice of Opposition states that the judgment was for wages for a past employee. You may be able to provide evidence that the person was not an employee or that the debt was not for wages.
If the judge at the hearing agrees with you, your employer will be ordered to stop withholding your earnings or withhold less money. The judge can even order that the **EWO** end before the hearing (so you would get some earnings back).
If the judge does not agree with you, the withholding will continue unless you **appeal to** a higher court. The rules for appeals are complex so you should see an attorney if you want to appeal.
If you have one court hearing, you should not file another Claim of Exemption about the same **EWO** unless your finances have gotten worse in an important way.
If your **EWO** is to be changed or ended, the levying officer must sign the notice to your employer of the change. He may give you permission to deliver it to the employer, or it can be mailed.

WHAT HAPPENS TO YOUR EARNINGS IF YOU FILE A CLAIM OF EXEMPTION?

Your employer must continue to hold back part of your earnings for the **EWO** until he receives a notice signed by the levying officer to change the order or end it early.

The levying officer will keep your withheld earnings until your Claim of Exemption is denied or takes effect. At that time your earnings will be paid according to the law that applies to your case.

REGARDING CHILD SUPPORT

If you are obligated to make child support payments, the local child support agency may help you to have an Order Assigning Salary or Wages entered. This order has the top priority claim on your earnings. When it is in effect, little or no money may be

available to be withheld for an **EWO**. And, if the local child support agency is involved in collecting this support from you, it may agree to accept less money if this special order is entered.

WHAT IF YOU STILL HAVE QUESTIONS?

If you cannot see an attorney, or don't want to see an attorney, you might be able to answer some of your questions by reading the law in a law library. Ask the law librarian to help you find sections 706.050 and 706.105 of the California Code of Civil Procedure. Other sections of the code, beginning with section 706.010 may also answer some of your questions.

Also, the office of the Wage and Hour Division of the U.S. Department of Labor may be able to answer some of your questions. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: ATTORNEY FOR (Name): _____	LEVYING OFFICER (name and address): <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">3/15/2023</p> <p style="text-align: center;">NOT APPROVED BY THE JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	LEVYING OFFICER FILE NUMBER:
EARNINGS WITHHOLDING ORDER FOR ELDER OR DEPENDENT ADULT FINANCIAL ABUSE (Wage Garnishment)	

EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.

EMPLOYER: Enter the following date to assist your record keeping.
 Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):

TO THE EMPLOYER REGARDING YOUR EMPLOYEE:

Name and address of employer <input style="width: 90%; height: 40px;" type="text"/>	Name and address of employee <input style="width: 90%; height: 40px;" type="text"/>
<input style="width: 90%; height: 40px;" type="text"/>	<input style="width: 90%; height: 40px;" type="text"/>

Social Security No. on form WG-035 unknown

- A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (see instructions on reverse of this form).
 Pay the withheld sums to the **levying officer** (name and address above). If the employee works for you now, you must **give the employee a copy of this order and the Employee Instructions (form WG-003)** within 10 days after receiving this order.
Complete both copies of the Employer's Return (form WG-005) and mail them to the levying officer within 15 days after receiving this order, whether or not the employee works for you.
- The total amount due is: \$
 - The amount arising from an elder or dependent financial abuse claim is: \$

Count 10 calendar days from the date when you received this order. If your employee's pay period ends before the tenth day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that 10th day.

Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.
- The judgment was entered in the court on (date):
 The judgment creditor (if different from the plaintiff) is (name):
- The INSTRUCTIONS TO EMPLOYER on the reverse tell you how much of the employee's earnings to withhold each payday. Follow those instructions unless you receive a court order or order from the levying officer giving you other instructions.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE)

LEVYING OFFICER REGISTERED PROCESS SERVER

(Employer's Instructions on reverse)

**EARNINGS WITHHOLDING ORDER
 FOR ELDER OR DEPENDENT ADULT FINANCIAL ABUSE
 (Wage Garnishment)**

INSTRUCTIONS TO EMPLOYER ON EARNINGS WITHHOLDING ORDERS

WG-030

The instructions in paragraph 1 on the reverse of this form describe your early duties to provide information to your employee and the levying officer.

Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the *withholding period*.

The withholding period is the period covered by the *Earnings Withholding Order* (this order). The withholding period begins 10 calendar days after you receive the order and continues until the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice), is withheld.

It may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *Employer's Return* (form WG-005)) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

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If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the Earnings Withholding Order to the levying officer with a statement of the reason it is being returned.**

WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.

WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, 706.050, and 706.104 explain the employer's duties.

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COMPUTATION INSTRUCTIONS

California law provides how much earnings to withhold, if any, for different amounts of disposable earnings and different pay periods, and takes into consideration different minimum wage amounts. The method of calculation is at Code of Civil Procedure section 706.050, and is described in the column to the right. You may also look on the California Courts Self-Help website for assistance in determining the maximum withholding amounts for different amounts of disposable income, for different pay periods, with different minimum wage amounts. The information is at www.courts.ca.gov/self-help-employerwagecivil.htm.

THESE COMPUTATION INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.

State law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

(A) To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), first compute the employee's *disposable earnings*.

Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings because they are not paid by the employer.

Disposable earnings are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

(B) After the employee's disposable earnings are known, to determine what amount should be withheld, you may look to the statute, follow the directions below in (C), or seek assistance on the California Courts Self-Help website at www.courts.ca.gov/self-help-employerwagecivil.htm. Note that you will also need to know the amount of the minimum wage in the location where the employee works.

(C) Calculate the maximum amount that may be withheld from the employee's disposable earnings, which is the *lesser* of the following two amounts:

- 20 percent of disposable earnings for that week; or
- 40 percent of the amount by which the employee's disposable earnings that week exceed the applicable minimum wage. If there is a local minimum wage in effect in the location where the employee works that exceeds the state minimum wage at the time the earnings are payable, the local minimum wage is the applicable minimum wage

To calculate the correct amount, follow the steps below:

Step 1: Determine the applicable minimum wage per pay period.

- For a daily or weekly pay period, multiply the applicable hourly minimum wage by 48.
- For a biweekly pay period, multiply the applicable hourly minimum wage by 96.
- For a semimonthly pay period, multiply the applicable hourly minimum wage by 104.
- For a monthly pay period, multiply the applicable hourly minimum wage by 208.

Step 2: Subtract the amount from Step 1 from the employee's disposable earnings during that pay period.

Step 3: If the amount from Step 2 is less than zero, do not withhold any money from the employee's earnings.

Step 4: If the amount from Step 2 is greater than zero, multiply that amount by 0.40.

Step 5: If the amount from Step 4 is lower than 20 percent of the employee's disposable earnings, withhold this amount. If it is greater than 20 percent of the employee's disposable earnings, withhold 20 percent of the disposable earnings.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

IMPORTANT WARNINGS

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.

IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!