



Introduction

As an employer and taxpayer, you should be aware that federal and state programs have been established to ensure that parents support their children. These programs both encourage family responsibility and reduce taxpayer costs for welfare benefits such as Temporary Aid to Needy Families (TANF).

As a part of these programs, employers and other persons who pay income to persons required by court order to pay support must withhold certain amounts of income when served with an order of income withholding. The amounts withheld must then be sent to the Michigan State Disbursement Unit.

Changes to Michigan law as of January 1, 1991, have expanded employers' involvement. The law requires income withholding take place immediately for almost all new or modified support orders. Under prior law, this would be required only when a parent fell behind in support payments. This is no longer true. All parents who pay support under support orders entered after January 1, 1991, will be subject to income withholding.

Income withholding for child support is NOT punishment, any more than withholding of income tax is a punishment. The information provided on this web page is intended to serve as a brief summary of your responsibilities as an employer under current law.

What laws pertain to income withholding?

- Friend of the Court Act: Michigan Compiled Law 552.501-552.535; also found in Michigan Statutes annotated 25.176(1)-25.176(35)
- Support and Visitation Enforcement Act: Michigan Compiled Law 552.601-552.650; also found in Michigan Statutes Annotated 25.164(1)-25.164(50)
- Consumer Credit Protection Act: Title III, Section 393(b) of Public Law 90-321, 15 USC, 1673(b)

Who must withhold income?

Any employer or other person, referred to as a "source of income," who owes or will owe income to the payer (the person owing money under a support order). Income is broadly defined to include (among other things):

- salaries, earnings, wages and commissions
- payments due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, or annuity; and
- any amount of money due to the payer as a debt of any other person, including debts of all kinds of businesses.

When must income be withheld?

An order of income withholding is binding on an employer seven days after the employer is served by ordinary mail with a true copy of the order of income withholding. Included with the order will be notice of income withholding, which will give the date of the mailing, the date to begin withholding, and where to send the money withheld.

How long do I continue withholding money?

The order remains in effect until further order of the court or until notified otherwise in writing by the Friend of the Court.

What if the employee's income is subject to garnishment or other withholding orders?

An order of income withholding for child support has priority over all other legal process under state law against the same income. This means it takes precedence over garnishments and other payroll deductions (except taxes, social security deductions and other income withholding orders for support).

What happens if I don't withhold the money?

An employer's failure to comply with an order of income withholding within seven days of service may result in a contempt finding by the court against the employer.

How do I know if the amount to be deducted changes?

The Friend of the Court is required to advise you if the order is changed. If the Friend of the Court serves the employer with a notice of modification of the order of income withholding, the amount withheld must be changed to conform with the court ordered modification within seven days after receipt of the notice of modification.

Isn't there some limit to the amount I may deduct?

The maximum amount taken out must comply with Section 303(B) of Title III of the Consumer Credit Protection Act (15 USC 1673(B)). Although deductions for garnishments are limited 25% of a person's disposable income, amounts withheld for child support can exceed 50% of the employee's disposable income for a work week in certain cases (such as when there are no other support obligations or there is arrearage in excess of 12 weeks). If withholding of more than 50% of the employee's income is required by the income withholding order, you should Contact the Friend of the Court for information, or consult with your attorney.

What do I have to put on the check to identify it as a support payment?

An employer must identify each withholding payment by the employee's name and social security number, case number, amount withheld, and the date on which support was withheld from the employee's income. the employer must also provide its federal employer identification number to the Michigan State Disbursement Unit.

What happens if I receive more than one withholding order for the same person?

If there is more than one order of income withholding against an employee, and the total amount to be withheld exceeds the limits imposed by Section 303(b) of the Consumer Credit Protection Act, the payments pursuant to the orders must be allocated in the following manner:

- If the total amount in the orders designated as current support exceeds the amount available for income withholding, you must allocate to each order an amount for current support equal to the fraction of total current support represented by the order (i.e., the amount of current support in that order divided by the total amount of current support in all orders) multiplied by the amount available for income withholding.
- If the total amount of the orders designated as current support does not exceed the amount available for income withholding, you must pay all amounts of current support and allocate the remaining income available for income withholding among the orders according to the fraction of past due support each order represents of the total past due support.

I have several employees subject to income withholding for support. Must I write a separate check for each one?

When you are subject to more than one income withholding order with the same Friend of the Court office, you may combine in a single payment amounts withheld from all employees and separately identify by employee, social security number, and case number the portion of the payment that is attributable to each individual.

How often do I have to send in the amounts I withhold?

Amounts withheld pursuant to an order of income withholding must be paid to the Michigan State Disbursement Unit within three days after the date of withholding.

Can I charge the employee for the costs associated with withholding?

Prior law required the employer to withhold an additional \$.50 for each payment made. However, this provision was repealed and is no longer in effect.

What if the employee says they do not owe the money and demands that I pay them? What protects me if I am sued for these wages?

Your payment to the Michigan State Disbursement Unit in accordance with an order of income withholding discharges your liability to the employee as to that portion of the employee's income.

What if I ignore the order and pay it to the employee?

An employer is liable for any amount that is knowingly and intentionally fails to withhold from the employee's income following service on the employer of an order of income withholding, except as the payment amount is limited by the Consumer Credit Protection Act.

This means the court will require you to pay the amount you should have withheld, even if you have paid it to the employee.

What do I do if this person quits, is fired, or otherwise stops working for our company?

After you have been served with an order of income withholding, you must notify the Friend of the Court if the employee's income from your company is terminated or interrupted for a period of 14 or more consecutive days. In such cases, you must provide the employee's last known address and the name and address of the employee's new employer (if known).

As an employer, do I have an obligation to provide any other information to the Friend of the Court?

Yes, upon the Friend of the Court's request, you are required to provide:

- full name and address of parent
- social security number
- date of birth
- amount of wages earned by or other income due to the parent
- employment status

■ information concerning dependent health care coverage if it is available as a benefit of employment

What happens if I refuse to hire, or if I take disciplinary action against an employee because of income withholding?

An employer who refuses to employ, discharges, disciplines or penalizes an employee because of an order of income withholding entered against that employee is guilty of a misdemeanor. The misdemeanor is punishable by a fine of up to \$500 and the employer will be required to make full restitution to the aggrieved employee including reinstatement and payment of back pay.

A Special Note to Employers

As an employer you are making a valuable contribution to the lives of children when you withhold and forward support payments on a timely basis. You have become a valued partner in one of the most effective support enforcement programs in the nation. This continued partnership between the public and private sectors will ensure that Michigan's children have the opportunity to lead happy and healthy lives.