

THE INSIDE PERSPECTIVE

LABOR AND EMPLOYMENT LAW SOLUTIONS FOR EXECUTIVES AND HR PROFESSIONALS



SMITH MOORE LLP
ATTORNEYS AT LAW

August 2005

Limitations on the Garnishment of Wages

It is time to prepare the payroll again. If only it were as simple as paying the wages to the employee who performed the work. But, in addition to withholding for federal and state taxes, as well as voluntary withholdings for insurance, retirement, and other benefits, you have received multiple notices of garnishment from third parties who want you to pay them, too. In North Carolina, who do you have to pay, and how much?

- Wages can be garnished for taxes, child support, and delinquent student loans. In some cases, wages can be garnished for alimony or spousal support. Wages generally cannot be garnished for other debts.
- When an employee is subject to multiple orders of child support withholding, current child support has priority over past-due support. If two families are owed child support, each family receives a pro rata share of the total amount garnished.
- Federal and state law contain certain maximums for garnishments. For example, North Carolina exempts 90 percent of an employee's wages from garnishment for state taxes. The maximum that can be withheld for child support is 45 percent of "disposable income" if the employee is also supporting another spouse or child, and 50 percent if not.
- The earnings of employees in bankruptcy or employees who owe delinquent federal taxes are not subject to these limits.
- "Disposable income" is gross income less amounts that are required deductions under the law. Voluntary deductions, such as contributions to retirement funds, health insurance premiums, and the like are not deducted from gross income before calculating the maximum amount of the garnishment.
- An employer may, but is not required to charge the employee \$2.00 for each withholding.
- In general, the law prohibits discharging (or disciplining) an employee because his earnings have been garnished.

TIP

Both federal and state law place restrictions on the garnishment of wages. While states differ, in North Carolina - with the exception of taxes, child support and delinquent student loans - few creditors may collect a debt this way.



TIP Author - Martin Erwin
Smith Moore LLP
Labor and Employment Team

Labor and Employment Team Members

Allen Buckley	(404) 962.1042	Alex Maultsby	(336) 378.5331
Laura Deddish Burton	(336) 378.5566	Jerry Oliver	(919) 755.8710
Will Burton	(336) 378.5421	Patti Ramseur	(336) 378.5304
Denise Smith Cline	(919) 755.8734	Barbara Ruby	(336) 378.5294
Martin Erwin	(336) 378.5327	Beth Brooks Scherer	(919) 755.8790
Mike Kelly	(336) 378.5336	Ed Sharp	(336) 378.5259
Caroline Lock	(336) 378.5341	Julie Theall	(336) 378.5256
Kenan Loomis	(404) 962.1036	Jeri Whitfield	(336) 378.5270
Travis Martin	(336) 378.5277		

To send individual email: firstname.lastname@smithmoorelaw.com

For additional information on this or any other labor and employment topic, please contact any member of the Labor and Employment Team.

The firm restricts its practice in the labor and employment area to the representation of management.



www.smithmoorelaw.com

ATLANTA

One Atlantic Center
Suite 3700
1201 West Peachtree Street
Atlanta GA 30309
404.962.1000
404.962.1200 {FAX}

GREENSBORO

300 N. Greene Street
Suite 1400
Greensboro NC 27401
336.378.5200
336.378.5400 {FAX}

RALEIGH

2800 Two Hannover
Square
Raleigh NC 27601
919.755.8700
919.755.8800 {FAX}

WILMINGTON

300 N. 3rd Street
Suite 301
Wilmington NC 28401
910.251.7001
910.251.7007 {FAX}

TIP is a publication of the Labor and Employment Practice Group of Smith Moore LLP.
The information in this TIP should not be interpreted as legal advice with respect to specific situations.