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Section No. 50400—Deductions	TOPIC	Court-Ordered Withholdings
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Overview

Introduction This topic provides an overview about court-ordered third party payments, which include:

Child Support, Dependent Support, Spousal Support
 Social Security – Administrative Wage Garnishment (AWG)
 Court-ordered Garnishments
 Student Loan Repayment
 Federal Tax Levy
 State Tax Levy
 Chapter 13 Bankruptcy

Garnishments are withholding orders and fall under the category of a general deduction in Cardinal. A withholding order is a legal document (writ) requiring the employer (Agency) to comply with certain tasks. While the ultimate responsibility and accountability for compliance falls under the agency, State Payroll Operations (SPO) is responsible for setup and maintenance of garnishments.

Child support laws, the availability of "easy credit," and economic growth in general are factors contributing to the rise in the volume and complexity of wage attachments. Garnishment administration is a specialized area requiring substantial knowledge of applicable Federal and State laws, coupled with the ability to interpret and apply those legal requirements under specific and often unique conditions. **There may be no other functional area in payroll that subjects the Agency and its representatives to as much risk for financial penalties, as well as criminal prosecution, for noncompliance and/or negligence as garnishment administration.**

Disclaimer This topic provides basic guidelines and references related to reviewing and verifying third party payments for common withholding orders. It does not provide guidance for all cases. Agencies are responsible for conducting their own research and/or seeking legal advice and opinions where situations warrant. A withholding order is a legal document (writ) requiring the employer (Agency) to comply with certain tasks, terms, and conditions. Therefore, it is the Agency that bears the ultimate responsibility and accountability for compliance.

Seek guidance from your agency legal counsel for any writ (legal document) in question.

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Definitions

The following table provides definitions of various terms and acronyms, which may be used in this topic or seen on actual withholding orders.

Term	Definition
amount exempt from levy	Term used in Federal tax levies means the amount computed from IRS Publication 1494, which is required to be left as an employee's "take-home" pay, with the remainder being deducted for the levy. Not to be confused with "guaranteed minimum net".
amount subject to garnishment	Also referred to as "amount available for garnishment". The term as used in Code of Virginia (COV) §34-29 means the actual amount that will be garnished, or the amount of the deduction.
CCPA	Consumer Credit Protection Act. Federal garnishment law. (Title 15 USC 1673)
COV	Acronym used in this topic for "Code of Virginia".
deductions required by law	Term used in COV §34-29 definition of "disposable pay". Common law interpretation is that only tax deductions apply (FITW, SITW, & FICA), not other wage attachments. Employee mandatory retirement contributions are required by law and do apply.
disposable earnings – Consumer Credit Protection Act	Also referred to as "disposable pay". Means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld (COV §34-29). Employee mandatory retirement contributions are required by law and are therefore excluded from disposable earnings.
disposable earnings – Administrative Wage Garnishment	The Debt Collection Improvement Act (31 USC 3720d) authorizes Federal Agencies to collect a debt without a court order. The Code of Federal Regulations (CFR 285.11); however, defines disposable pay as compensation remaining after the deduction of health insurance premiums and any amounts required by law to be withheld.
DSS/EDI child support deduction	Term for child support orders that are paid to Virginia Department of Social Services, Division of Child Support Enforcement through Electronic Data Interface.
earnings	Means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise (COV §34-29).

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Term	Definition
garnishee	Term used on garnishment instruments issued from Virginia courts refers to the employer (Agency) who must comply with the order.
garnishment	Means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt (COV §34-29).
guaranteed minimum net	As defined in the CCPA and COV §34-29, creditor garnishments cannot reduce an employee's disposable pay for any given workweek below 40 times the federal minimum hourly wage prescribed by 29 U.S.C. § 206(a)(1) or the Virginia minimum hourly wage prescribed by § 40.1-28.10 , whichever is greater, in effect at the time earnings are payable. This term should not be confused with "amount exempt from levy."
judgment creditor	Term used on garnishment instruments issued from Virginia courts refers to the creditor or plaintiff who files the garnishment. Such plaintiff must have obtained a judgment in a previous case.
judgment debtor	Term used on garnishment instruments issued from Virginia courts refers to the individual (employee) whose pay will be garnished.
return date	Term used on garnishment instruments issued from Virginia courts refers to the date that the garnishment must be paid or answer filed with the court. Normally is 90 days from the date the garnishment is filed.
support deduction	Term for child support orders that are paid directly to a custodial parent or out-of-state agency by means of a third party check.
take-home pay	Term used for computation of Federal Tax Levies refers to what is normally considered "net" pay. Gross pay minus all taxes and deductions in effect when the levy is received.
tax levy	Term used to describe an involuntary withholding order for payment of delinquent Federal Taxes.
tax liens	Term used to describe involuntary withholding orders for payment of delinquent State or local taxes.

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wage attachment	Legal instrument which requires the involuntary withholding of an individual's pay for payment of any debt or support requirement. Also see "garnishment."
writ of fieri facias	Legal term for the garnishment suggestion (instrument).

Applicable Laws

The Consumer Credit Protection Act (CCPA), codified under the United States Code 15 USC 1673, protects consumers from unfair or harsh debt collection practices. Although not all forms of wage attachments are covered under the CCPA, deductions for non-CCPA wage attachments must still be considered in computing amounts available for garnishment (29 CFR 870.11). The following table provides basic code references for the common forms of wage attachments. It is not all-inclusive:

Wage Attachment	Federal Law	State Law
Child Support Orders	15 USC 1673 (CCPA) 29 CFR 870 42 USC 666	COV §20-79 COV §63.1-250 COV §20-88 COV §63.1-250.3 COV §34-29 COV §63.1-256
Creditor Garnishments	15 USC 1673 (CCPA) 29 CFR 870	COV §34-29 COV §8.01-512.4 COV §8.01-511
Defaulted Student Loan Withholding Orders	20 USC 1095a and 31 USC 3720d and CFR 285.11	Not Applicable
Federal Administrative Wage Garnishment	31 USC 3720d and CFR 285.11	Not Applicable
Federal Tax Levies	IRC 6331 IRC IRC 6332 6334 IRC 6343	Not Applicable
State Tax Liens	15 USC 1673 (b)(C)	COV §58.1-1804 (Income Tax) COV §58.1-3952 (Local Taxes)
Bankruptcy	11 USC Chapters 7 & 13, 15 USC 1673 (b)(B)	Not Applicable

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Commonwealth of Virginia

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Honoring the Garnishment

If an agency receives a notice of garnishment or levy prior to the distribution of an employee’s physical paycheck or direct deposit , the agency must process the garnishment or levy in the current pay period regardless of whether the employee’s pay has already been prepared or certified.

All orders must be answered regardless of whether they are deducted. The agency can be held liable for the full judgment amount if the authority issuing the garnishment is not notified. The Commonwealth, as an employer, is not obliged to honor wage assignments that come directly from **payday lenders** (those not authorized by the court) regardless of the agreement between the employee and the vendor. Additionally, it is strongly suggested that such assignment requests not be honored by agencies even if the employee confirms intent for such payroll deductions to occur.

Garnishments on Work Study Payments

As mandated in 20 USC 1095a (*Higher Education Act*), work-study payments are not subject to garnishment or attachment in order to satisfy a debt owed by the student awarded such assistance other than a debt owed to the Secretary of Education.

Garnishment Fee

A fee may be associated with the collection of certain third party payments. The amount and the number of times to be withheld may vary, depending on the type of deduction. Refer to the “Fee for Garnishments, Support Orders and Tax Liens Deduction” section within this topic.

Deduction Processing Features

Cardinal HCM allows you the flexibility to set up the garnishment deduction to:

Take a percentage of net pay or

- Take a flat amount and ensure that the dollar amount does not exceed a specified percentage of disposable earnings.
- Decrease the goal amount by each deduction to show balance due
- Enter a dollar amount in the goal field to stop the deduction
- Enter a date in the Deduction End Date field to stop the deduction; and
- Ensure the employee retains the “guaranteed minimum net”
- Link multiple garnishment deductions and ensure the maximum percentage is not exceeded over multiple garnishments.

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Agency Responsibility

Receipt of Order

When an agency receives a garnishment order, the agency determines the employee status (e.g., active, terminated, leave of absence). If the agency is unable to find the employee, or the employee has been terminated, the agency responds to the order with the appropriate information.

If the status of the employee is active or leave of absence, the agency securely posts a copy of the writ and the Garnishment Request Form to SPO SharePoint for SPO to complete the setup in Cardinal. SPO is automatically alerted from SharePoint that documents have been posted to SharePoint.

The original garnishment order should be maintained at the employing agency.

Employee Search

To determine if an employee is employed by the agency, use the Employee Search Match option in Cardinal. Refer to the “PY381 Reviewing Garnishment Set Up” Job Aid for detailed instructions.

Maintenance, Review, and Payment

Once SPO notifies the agency that garnishment setup is complete, the agency reviews the setup in Cardinal to verify accuracy. If changes are needed, the agency contacts SPO and SPO makes updates.

Any cancellations or changes to existing orders should be communicated to SPO by the employing agency.

The agency will receive the garnishment payment check from SPO, review it, reconcile it, and send the check to the appropriate party per the garnishment order.

Refer to the “Reviewing Garnishment Setup in Cardinal” Job Aid for detailed information.

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SPO Responsibility

SPO Responsibility

Once the agency has verified the employee’s status, posted a copy of the order to SharePoint, which automatically notifies SPO of the garnishment order, SPO is responsible for entering the garnishment details and setting up the associated general deductions in Cardinal HCM.

SPO will notify the agency that the garnishment has been set up and, if the agency identifies necessary changes, SPO will make the changes upon notification from the agency.

SPO will receive all garnishment payment checks and distribute these payments to the appropriate agency.

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Before You Begin

Identify Withholding Requirements

Thoroughly read each withholding order in its entirety. Although standard forms are used, the information contained in the order is unique to the particular case. Each type of wage attachment has its own requirements in determining the calculation method, basis of calculation, limits, remittance requirements, information requirements, due dates, and means by which it can be satisfied or stopped. The payroll administrator should be able to answer the following questions concerning the wage attachment:

- What type of wage attachment is it? i.e., court-ordered creditor garnishment, child support order, Tax Levy, etc.
- What laws or regulations govern the requirements of the wage attachment? See "Applicable Laws" section previously provided in this topic.
- Based on the answers to the above questions, will the deduction be computed on a percentage basis, flat amount, or other method such as an exemption amount or guaranteed net?
- If a percentage deduction is required, what is the basis of the percentage? i.e., "gross pay", "net pay", "disposable pay", "take-home pay", or other unique method.
- What is the frequency of the payments (remittance)? i.e. each payday, monthly, lump sum on return date, etc.
- If the deduction cannot be taken, who do I need to respond to? When?
- When should the deduction start?
- When should the deduction stop?

Prioritize Multiple Orders

State laws govern the priority of withholdings when an employee is served with multiple orders. The Dept. of Labor and Industry provides guidance for determining the order of priority on their website at:

http://www.doli.virginia.gov/laborlaw/support_files/garnsupp_multiple.html

The priority guidelines are as follows:

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Withholding Type	Guideline
Child Support	Takes priority over any bankruptcy, garnishment or deductions under state law.
Bankruptcy	Title 11 Chapter 13 orders take priority over any other claim against the employee's wages other than child support.
Garnishment	Priority is based on the garnishment received first. Notify, in writing, the clerk of the court from which the second garnishment was issued if the employee is at the maximum amount on a prior garnishment.
Federal Tax Levies	Normally allow amounts for all current deductions (including wage attachments) which are in effect when the levy is received to continue. The tax levy takes priority over all wage attachments and voluntary deductions (including changes) which are received after the levy, including child support. Note: Contact the IRS office issuing the levy in the event a child support order is received after the levy is in effect.
State Tax Liens (Commonwealth of Virginia)	Follows the same handling priority as garnishments issued under state law. However, in some instances up to 100% of disposable pay may be taken in addition to the current wage attachment.

Prioritization Examples

Once the priority is determined, you must determine whether the second order can be taken at all, held until the priority order is satisfied, or taken at a reduced amount. Title 29 CFR 870.11 provides examples that are helpful in making this decision. Some common situations include:

Example 1: Garnishment "A" is currently being deducted with a return date of August 15th, Garnishment "B" is received with a return date of September 30th. Garnishment "B" should be held until Garnishment "A" is satisfied on August 15th, and then deducted until the return date of September 30th.

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Prioritization Examples, continued

Example 2: A child support order is currently in effect until September 30 at the amount of \$500.00, which is 50% of the obligor's disposable pay. Garnishment "C" is received with a return date of August 15. Garnishment "C" cannot be taken because more than 25% of the employee's pay is already being withheld for the child support. Garnishment "C" must be answered with an explanation that the garnishment cannot be withheld due to COV §34-29 limits being exceeded by a priority withholding order.

Example 3: A child support order is currently in effect until September 30. The child support amount is \$200.00, which is only 15% of the obligor's disposable pay. Garnishment "D" is received with a return date of August 15. Continue to deduct the full child support amount plus 10% for Garnishment "D", so long as the combined orders do not exceed 25% of disposable pay. Garnishment "D" must be answered by August 15th with the remittance and an explanation that the reduced amount was due to an existing priority withholding order.

Note: All orders must be answered regardless of whether they are deducted. The agency can be held liable for the full judgment amount if the authority issuing the second garnishment is not notified.

However, the Commonwealth, as an employer, is not obliged to honor wage assignments that come directly from **payday lenders** (those not authorized by the court) regardless of the agreement between the employee and the vendor. Additionally, it is strongly suggested that such assignment requests not be honored by agencies even if the employee confirms intent for such payroll deductions to occur.

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Special Considerations

Out-of-State Child Support Orders. The Uniform Interstate Family Support Act (UIFSA) requires employers to honor out-of-state child support orders. The act also provides that while the order controls the amount deducted and the person or agency designated to receive the payments, the administrative process (i.e., administrative fees, timing and frequency of deduction, and maximum limits) is controlled by the obligor's work state (Virginia).

Out-of-State Creditor Garnishments. Due to the specific requirements placed on creditor garnishments by the Code of Virginia, garnishments issued by courts not having jurisdiction within Virginia are generally not honored unless the employee resides and works in the other state. Out-of-state garnishments received for employees living and working in Virginia should be answered with the suggestion that the withholding order be domesticated in a Virginia court. Seek a qualified legal opinion if in doubt. Note: this does not apply to Child Support Orders or any withholding order issued by a Federal court or agency.

Bankruptcy Orders. Bankruptcy is unique in that simply filing a petition for relief under Chapter 13 invokes a stay of involuntary collection actions under 11 USC 1301. When an employee produces evidence of filing Chapter 13, cease withholding of all wage attachments (except federal tax levies) and notify the issuing authorities (including IRS, if applicable) and the Bankruptcy Court. It is recommended that funds collected prior to filing the bankruptcy petition be held until instructions are provided from the Clerk of the Bankruptcy Court, Trustee, or Court that issued the garnishment. Once the Chapter 13 withholding order is issued, follow the terms and instructions contained in the order.

Federal Tax Levies. Once a Notice of Levy is issued it must be withheld until a Release of Levy (Form 668-D) is received. Agencies should be aware that employee disputes and fear of employee litigation are not good cause for failing to honor the levy. Carefully follow the instructions on the levy, paying particular attention to the instructions for figuring the amount exempt from levy found on the reverse of form 668-W(C)(DO).

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State Tax Liens:

COV §58.1-3952 (local taxes): These orders are entitled to 100% of net without regard to CCPA limits. In the event an order is received that exceeds 100% of net for a single pay period, it is recommended that the locality that issued the order be contacted to see if a more lenient payment schedule will be acceptable. The locality may insist on a 100% of net deduction.

COV §58.1-1804 (income tax): These orders are also entitled to up to 100% of net however the law does provide for an "exempt from lien" amount. Unlike the Federal levy process, the exemption is not automatic. The employee must complete form CS-7 and it must be approved by the Department of Taxation prior to reducing the amount withheld.

Garnishment Deductions

GARN

This deduction is **required** for anyone that has a garnishment.

Note: The general deduction code GARN only needs to be added to the employee payroll record once, in the same company. If the employee receives a second garnishment, within the same company, a second GARN general deduction is not required. If the employee works in multiple companies, and garnishment orders are received from different companies, the GARN fee is added to each company. The distribution of the deduction may be reviewed on the employee's View Paycheck page.

GRNFE2

This deduction will appear if a fee is required for a garnishment other than Child Support.

GRNFEE

This deduction will appear if a fee is required for the Child Support garnishment.

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Fee for Garnishments, Support Orders and Tax Lien Deductions

Background

The Code of Virginia provides for the assessment of fees to be paid by both full time and part-time employees for the costs of collection of garnishments, tax liens, and child support orders. Executive Branch agencies must collect these fees as follows:

Code of Virginia	Collection Fee	Frequency
§ 8.01-512.2	Garnishment \$10.00	once per summons
§ 63.1-256	Child Support \$ 5.00 for employees physically working in Virginia; otherwise, based on the state where the employee works	per remittance/per order
§ 58.1-1804	Tax Lien \$20.00	once per tax lien

Guidelines

Fees are imposed on the employee's disposable income (gross wages less deductions required by law) after the court-ordered deduction but before any voluntary deductions (i.e., health care or flexible spending accounts).

Note: The combined child support amount and fee may not exceed the maximum limit applied to disposable earnings as established by Code of Virginia (§ 34-29) and the Federal Consumer Credit Protection Act (CCPA) (15 U.S.C. 1673(b)). If the employee's disposable income is not sufficient to deduct the fee during the pay period the court order is initiated, then:

- support order fees are waived,
- fees for garnishments and tax liens must be collected when funds become available.

Multiple Orders

In the event you have a child support order in combination with a garnishment or tax lien, you may do a SPOT transaction to add the appropriate fee to the regularly collected support order fee. See CAPP Topic No. 50605, *Tax and Deduction Overrides*.

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Fee for Garnishments, Support Orders and Tax Lien Deductions, Continued

Court Orders Served But Not Processed If an agency is served with a court ordered withholding for a garnishment or tax lien which is subsequently resolved, prior to payroll processing, the agency is still obligated to assess the garnishment fee.

Fee Exemptions Fees should not be collected on the following court ordered withholdings; bankruptcy, IRS federal tax levies, local and county tax liens.

Out-of-State Support Orders Out-of-state support orders with an administrative (garnishment) fee different from Virginia do not override the required assessment.

Garnishment Reports

RPY146, Deduction Register Since garnishment and garnishment fee deductions are general deductions, agencies can use the RPY146, Deduction Register, to review employee deductions to ensure that amounts are what is expected.

RPY445, EE Child Support without Adm Fees Child support collection fees are due with every remittance of a child support payment. Therefore, when there is an active child support deduction, there should always be an active Garnishment Fee (GRNFEE) deduction present.

Agencies can run RPY445, EE Child Support without Adm Fees, to ensure that all child support deductions have a corresponding garnishment fee.

The report will show a list of employees that have an active child support deduction without a GRNFEE deduction.

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Internal Control

Agency Responsibility It is the responsibility of the employing agency to ensure that third-party payments are deducted in accordance with the court order or levy, and that payments are forwarded to the creditor by the due date.

Record Retention

Time Period Payroll records and documentation should be retained for 5 years or until audited, whichever is later.

Contacts

Contacts Director, State Payroll Operations
Voice: (804) 225-2245
E-mail: Payroll@doa.virginia.gov

Payroll Support Analyst/Trainer
Voice: (804) 786-1083
E-mail: Payroll@doa.virginia.gov

Subject Cross References

References CAPP – Topic No. 50605, *Tax and Deduction Overrides*

Suggested Additional Resources The following can be found on the Cardinal Website, under Learning – Job Aids:

PY 381 Reviewing Garnishment Setup in Cardinal

Refer to suggested job aids and training information for data entry and processing on the Cardinal website: <http://www.cardinalproject.virginia.gov/>.
