

Department of Accounts

Payroll Bulletin

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The Payroll Bulletin is published periodically to provide CIPPS agencies guidance regarding Commonwealth payroll operations. If you have any questions about the bulletin, please call Cathy McGill at (804) 371-7800 or Email at cathy.mcgill@doa.virginia.gov

State Payroll Operations

Director **Lora L. George**
Assistant Director Cathy C. McGill

Creditor Garnishments

**Increase in
Federal
Minimum
Wage**

Effective July 24, 2007 the Federal Minimum Wage increased from \$5.15 per hour to \$5.85 per hour. Not only does this increase impact the amounts paid to wage and salaried employees, but it also impacts the amount that may be withheld for garnishments on all employees.

**Change in
Amount
Protected from
Garnishment**

Creditor garnishments are governed by a joint federal/state scheme. The federal Consumer Credit Protection Act (Title III) requires that the amount taken for garnishments may not exceed 25% of disposal income or 30 times the amount of the federal minimum hourly wage, whichever is less. State laws restricting the amount taken for garnishment preempt federal law if the maximum amount subject to garnishment is lower than the federal maximum.

Effective July 1, 2006 the Code of Virginia was revised to make the amount protected from garnishment equal to 40 times the federal minimum hourly wage in effect. Since this reduces the amount subject to garnishment, Virginia law must be followed when calculating garnishments.

**Deduction
#008,
Garnishment 6**

CIPPS Deduction 008, Garnishment 6 may be used to ensure that the employee's net pay is not less than the protected amount required by the Code of Virginia (see table on next page). **You must put "47" in positions nine and ten of the utility field when using this deduction for an employee.** *If this deduction has already been established for an employee and is still active, you must update the utility field as described.* Failure to include "47" in position nine and ten of the utility field will result in application of the federal protected amount instead of the amount required by the Code of Virginia.

**Additional
Information**

Additional information regarding the proper calculation of garnishments may be found on the Virginia Department of Labor and Industry's website:

http://www.doli.virginia.gov/whatwedo/labor_law/garnsupp_faq.html

Creditor Garnishments, cont.

AMOUNT SUBJECT TO GARNISHMENT, EFFECTIVE JULY 24, 2007

Pay Frequency:	Disposable earnings are:	Subject to Garnishment:
WEEKLY	\$234.00 or less	None
	\$234.01 but less than \$312.00	Amount above \$234.00
	\$312.00 or more:	Maximum 25%
BIWEEKLY	\$468.00 or less	None
	\$468.01 but less than \$624.00	Amount above \$468.00
	\$624.00 or more:	Maximum 25%
SEMIMONTHLY	\$507.00 or less	None
	\$507.01 but less than \$676.00	Amount above \$507.00
	\$676.00 or more:	Maximum 25%
MONTHLY	\$1,014.00 or less	None
	\$1,014.01 but less than \$1,352.00	Amount above \$1,014.00
	\$1,352.00 or more:	Maximum 25%

Example

Example 1: Assuming disposable earnings of \$600.00 and a **semi-monthly pay period**: \$600.00 – 507.00 (protected amount, see above) = \$93.00. The 25% maximum is more, so withhold only \$93.00 (\$600.00 times 25% = \$150.00).

Example 2: Assuming disposable earnings of \$650.00 and a **bi-weekly pay period**: \$650.00 - \$468.00 (protected amount, see above) = \$182.00. Since this exceeds the 25% maximum, (\$600.00 times 25% = \$150.00), only the 25% maximum of \$150.00 may be withheld.

FBMC Contacts

FBMC Contacts Update

April Sheffield was recently promoted to Account Manager in the FBMC Client Services Division and Allison Morris replaces her as the new Client Services Specialist. Allison provides support for Scott Mixon and is available to address any concerns or questions, especially when Scott can not be reached immediately. Allison can be reached at 800-872-0345, extension 2406 or amorris@fbmc-benefits.com

FICA Taxability of Aliens

IRS Guidelines

The following IRS web site provides a good overview on the FICA taxability of alien employees.

<http://www.irs.gov/businesses/small/international/article/0,,id=129427,00.html>

In general aliens performing services in the United States as employees are liable for U.S. social security and Medicare taxes. However, certain classes of alien employees are exempt from U.S. social security and Medicare taxes as follows.

An H-2A nonimmigrant admitted into United States temporarily to do agricultural labor is FICA exempt. All other H visa holders must pay FICA taxes.

Basically, there are 3 requirements in order for other non US citizens to be exempt from FICA.

1. Their employment to work for your company must be authorized. If they don't have proper work authorization, they can't be FICA exempt.
2. They must be F1, J1, M1 or Q1. (F2, J2's and most all other types including H1 and TN are never FICA exempt)
3. They must be "nonresident aliens". This is a complex tax formula discussed at the end of the IRS web site listed above. F1, J1, M1 and Q1's are generally only considered nonresident aliens for their first five years in the US. In their sixth year they become resident aliens for tax purposes and are no longer FICA exempt. For example, if someone enters the US as F1 or J1 for the very first time on 12/01/2005 they are a nonresident alien for 5 years (2005, 2006, 2007, 2008, 2009) so long as they remain either F1 or J1. On 1/1/2010 you usually would need to start withholding FICA (unless you are a university and then other rules come into play).

If you need any assistance in making a FICA tax determination, please contact Martha Laster at Martha.laster@doa.virginia.gov.
