

PAYROLL: SALARY ATTACHMENTS AND ASSIGNMENTS

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PAYROLL: SALARY ATTACHMENTS AND ASSIGNMENTS

"I have discovered the philosopher's
stone, that turns everything into gold:
it is, 'Pay as you go.'"

--John Randolph

I. INTRODUCTION

State¹ and Federal statutes set forth procedures by which salaries of employees held by employers may be legally attached to satisfy indebtedness. This chapter identifies the University's legal responsibilities in connection with those statutes and sets forth the suggested procedures to cover most situations. If cases develop that are not addressed here, they should be referred promptly to the Office of the Vice President--Financial Management.

For information on recovering amounts owed the University by employees, refer to Accounting Manual chapter [R-212-2](#), Receivables Management.

II. STATE OF CALIFORNIA AND FEDERAL DOCUMENTS TO WHICH THE UNIVERSITY OF CALIFORNIA RESPONDS

A. EARNINGS WITHHOLDING ORDER (ORDINARY MONEY JUDGMENT)

An Earnings Withholding Order is a document, issued by a State levying officer in response to a judgment creditor's application for an Issuance of Earnings Withholding Order, indicating that a judgment has been rendered against a debtor for payment of money.

Disposable Earnings. Only those amounts that are exempt from levy by statute are excluded from disposable earnings. "Disposable earnings" is defined as gross salary less deductions for Federal and State income taxes, OASDI and Medicare taxes, and the employee contribution to the regular retirement plan. In addition, the following deductions, made voluntarily by the employee, may be excluded from gross salary: contributions to 403(b) plans; child care and health care reimbursement accounts; the employee's portion of health and dental plan premiums; life insurance premiums; and charitable contribution. New deductions may not be excluded from gross salary unless the deduction is beyond the employee's control; for example, union dues and agency fees may be excluded.

¹ All references to State law in this chapter are references to California State law.

A change in the amount of a deduction that was in effect as of the employer's receipt of the levy may be excluded from gross income if not in the employee's control, but increases to voluntary plans are not excluded.

1. Documents Served by Levying Officer

The levying officer will serve upon the University the original and one copy of the Earnings Withholding Order, the Employer's Return, and the Notice to Employee of Earnings Withholding Order.

2. Withholding Limitation

Under the Federal Wage Garnishment Law, an Earnings Withholding Order can only reach the lesser of either (a) 25 percent of the disposable earnings due the employee for each pay period during which the order is in effect, or (b) the amount by which the disposable earnings for each subject pay period exceed 30 times the Federal minimum hourly wage times the number of weeks and/or fractional parts thereof within the pay period.

3. Withholding Period

The order establishes a lien against wages earned for any pay period ending within the "withholding period." The withholding period commences on the 10th calendar day after service of the order and continues until the earliest of the following dates:

- 1) the date the full amount specified in the order has been withheld;
- 2) the date of termination specified in a court order served on the University; or
- 3) the date of termination specified in a notice of termination served on the University by the levying officer.

Thus, all payroll checks are subject to withholding beginning with pay periods which end on the 10th day after the date of service of the order. For example, if an order is served on Friday, the withholding period commences on the second following Monday. Withholding will then continue for all pay periods until the order is satisfied or a release is received, whichever occurs earlier.

II. STATE OF CALIFORNIA AND FEDERAL DOCUMENTS TO WHICH
THE UNIVERSITY OF CALIFORNIA RESPONDS (Cont.)

A. EARNINGS WITHHOLDING ORDER (ORDINARY MONEY JUDGMENT)
(Cont.)

If an employee leaves the University and is subsequently rehired or returns to work during the withholding period, the University must resume withholding pursuant to the order.

4. Payments to Levying Officer

Amounts withheld from each payroll check are payable monthly to the levying officer no later than the 15th of each month. The monthly payment shall include all amounts required to be withheld from earnings during the preceding calendar month up to the close of the pay period ending closest to the last day of that month. The University may pay the levying officer more frequently than monthly; however, in this instance, the payment must be made no later than 10 days after the close of the pay period.

5. Amounts Withheld after Termination of Order

If the University has withheld amounts pursuant to an Earnings Withholding Order after the date of termination of the order, but prior to the receipt of notice of its termination, but has not paid over such amounts to the levying officer, the withheld amounts should be released to the employee. The appropriate source of a Termination of Withholding Order or release is the levying officer, the court of authority, or the State taxing agency that issued the order.

Refer to section III. for additional procedures in response to the service of an Earnings Withholding Order.

B. EARNINGS WITHHOLDING ORDER FOR TAXES (STATE)

A withholding order for taxes is an Earnings Withholding Order issued to collect a State tax liability; it is so denoted on the face of the order. The procedures given in subsection II.A. for an Earnings Withholding Order for an ordinary money judgment and in section III. also apply to an Earnings Withholding Order for Taxes, with the two following exceptions:

1. Withholding Limitation

The State may itself issue a withholding order for taxes. The order will specify the total amount to be withheld. The amount withheld by the University each pay period will normally be subject to the same limitations as are applicable in responding to an ordinary Earnings Withholding Order (subsection II.A., above). However, the State may apply through the judicial system to require the University to withhold and pay a greater amount.

2. Withholding Period

The withholding period commences for earnings payable on the 10th day after service of the order. The University should not withhold any earnings prior to the withholding period commencement except in the following two circumstances:

a. Jeopardy Withholding Order for Taxes

The State may issue a Jeopardy Withholding Order for Taxes when the State has determined that the collection of a State tax liability will be jeopardized by delaying the time when withholding commences. In such a case, withholding begins with earnings due the employee at the time of service of the order.

b. Temporary Earnings Holding Order

The State may issue a Temporary Earnings Holding Order when the State intends to apply for a withholding order for taxes and has determined that the collection of the State tax liability will be jeopardized if the Temporary Earnings Holding Order is not issued. Such an order requires the University to retain in its possession all or such portion of the employee's earnings thereafter due as is specified in the order. The Temporary Earnings Holding Order expires 15 days from the date it is served. The retention of the earnings by the University may exceed this period only by court order. If 15 days elapse and no court order is received, the withheld earnings are payable to the employee.

II. STATE OF CALIFORNIA AND FEDERAL DOCUMENTS TO WHICH
THE UNIVERSITY OF CALIFORNIA RESPONDS (Cont.)
B. EARNINGS WITHHOLDING ORDER FOR TAXES (STATE) (Cont.)

Except as specified in paragraph b., above, for a Temporary Earnings Holding Order, a State withholding order for taxes remains in effect until the amount specified in the order has been paid in full, or the order has been withdrawn, except that the order automatically terminates one year after the employee separates employment with the University.

C. EARNINGS WITHHOLDING ORDER FOR CHILD OR SPOUSAL SUPPORT

A withholding order for support is an Earnings Withholding Order issued to collect delinquent amounts payable under a State judgment for the support of a child, spouse, or former spouse; it is so denoted on the face of the order. Effective January 1, 1998, under the Uniform Interstate Family Support Act a child support order issued in another State may be sent directly to a California employer without first filing the order with a California Court. Thus, the University must treat an income withholding order issued by another State as if it had been issued in the State where the employee works and must immediately withhold and distribute the withheld funds as directed in the withholding order. In addition, the University must immediately provide a copy of the order to the responsible employer.

**

The procedures given in subsection II.A. for an Earnings Withholding Order for an ordinary money judgment and in section III. also apply to an Earnings Withholding Order for child or spousal support, with the two following exceptions:

1. Withholding Limitation

Under an Earnings Withholding Order for Support, 50 percent of the employee's disposable earnings should be withheld unless the order requires a greater (but not in excess of what is permitted by Federal law) or lesser amount to be withheld.

2. Withholding Period End Date

The withholding period for withholding orders for child or spousal support begins on the 10th day after service of the order and continues until either (a) the total amount specified in the order has been withheld, or (b) a court order or a notice signed by the levying officer has been received, specifying a termination date. If not terminated earlier, a withholding order for

support automatically terminates one year after the employee separates employment with the University. Thus, if the employee returns to work for the University within one year from the date his or her employment terminated, the University must again withhold pursuant to the withholding order for support.

D. EARNINGS WITHHOLDING ORDER FOR PAYMENT OF A DEFAULTED STUDENT LOAN

Under the administrative Wage Garnishment Program, a California Student Aid Commission (CSAC) Order of Withholding from Earnings requires an employer to withhold income from Federal Family Education Loan (FFEL) borrowers who have defaulted on the repayment of their student loans. Under Federal law (Public Law 102-164; 20 U.S.C. 1095a), **the CSAC is not required to obtain a court order since the law specifically authorizes an administrative action.** Consequently, the University must honor such withholding orders, including those issued by guarantee agencies from other states. A copy of the order must be furnished to the employee.

The employer is required to begin withholding from the employee's disposable pay beginning with the first pay period after the issuance of the withholding order. The amount withheld cannot exceed ten percent (10%) of the employee's disposable pay for each pay period.

E. WAGE ASSIGNMENT FOR CHILD OR SPOUSAL SUPPORT

A State Wage Assignment orders a person to assign a portion of his or her earnings, due or to be due in the future, sufficient to pay the amount of support ordered by the court. A Wage Assignment order becomes effective not later than 10 days after the University has been served with the order. Until the court either modifies or terminates the order, the University must deduct the specified support payment each time wages are paid. (One dollar and fifty cents for administrative costs may be deducted from the employee's salary--not from the support payment--for each payment made pursuant to the order. The \$1.50 deduction should be credited to the miscellaneous income account.)

Amounts withheld under a Wage Assignment for child or spousal support must be sent to the assigned payee--either the person to whom support has been ordered to be paid, the district attorney, or other person

II. STATE OF CALIFORNIA AND FEDERAL DOCUMENTS TO WHICH
THE UNIVERSITY OF CALIFORNIA RESPONDS (Cont.)
E. WAGE ASSIGNMENT FOR CHILD OR SPOUSAL SUPPORT (Cont.)

* designated by the court to receive the payment--within 7 business days after the date the employee is paid.²

If payments cannot be delivered for a period of six months because the recipient has failed to provide a change of address to the University or the designated county officer (if the Wage Assignment specifies that payments are to be made to a designated county officer), the University should not make any further payments under the assignment; as required by law, the University should return all undeliverable payments to the employee.

After an employee (for whom a Wage Assignment has been received by the University) has left his employment, the University is required to notify the assigned payee. Notification must be by first-class mail, postage prepaid, to the last known address of the assigned payee. This notification process must take place at the time the next payment is due on the Wage Assignment.

When an employee who is subject to child or spousal support withholding terminates employment, the University must cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the support obligation.

Refer to section III. for additional procedures in response to the service of a Wage Assignment for support.

F. HEALTH INSURANCE COVERAGE ASSIGNMENT ORDER

A State Health Insurance Coverage Assignment order requires the University to enroll the child of an employee in a health plan (this includes medical, dental, and optical care plans). The University is required to take steps to commence health insurance coverage for the child within 10 days of service of the order unless notice of a motion to quash the order is

² The amounts of support withheld under more than one court order may be forwarded to the state agency or local agency designated by the court in a consolidated check, accompanied by an itemized accounting providing the amount attributable to each employee and identifying each employee by name and social security number or other identifying number.

subsequently received. If the University does receive notice that a motion to quash has been made, no further action is required unless an order resolving the motion in favor of the person seeking the assignment (the "applicant") is received.

Close coordination between local Payroll Offices and Benefits Offices is required to process a Health Insurance Coverage Assignment order. Local procedures should be in place to ensure (1) that a Health Insurance Coverage Assignment order received by one office is immediately copied and sent to the other office and (2) that all requirements for compliance with the order are met within the time limits set by law. The Benefits Office has only 10 days to take steps to commence health insurance coverage for the child; and the Payroll Office must ensure that any required premiums are withheld from the employee's pay. In addition, within 10 days of being served with a Health Insurance Coverage Assignment order, the University is required to deliver a copy of the order to the employee, along with written notice of the employee's rights under the law to move to quash the order.

In order to be enrolled in a health plan, the child must meet the University of California eligibility rules for family members as contained in the Group Insurance Regulations. If the Health Insurance Coverage Assignment order requires that the child be covered by a specific type of plan (e.g., fee-for-service) but the employee is covered under another type (e.g., HMO), the employee and all enrolled family members must be transferred to the same plan as the child. If the court assigned plan is not available where the child resides, the employee may transfer his coverage (and that of any other covered dependent) to a plan which is available to all members of the family unit. If the court does not make an assignment and the parent is enrolled in a medical/dental plan which is available to the child, the child should be enrolled in that plan. If the plan is not available, the parent may transfer his coverage as described above. The child may not be enrolled in a different plan from the parent. In the event the employee is not covered by a University medical plan due to an opt-out election, the University should reverse the opt-out election and cover the employee and the supported child under the CORE major medical plan. "Certification or Loss of Other Group Coverage" form (UPAY 727) should be completed. If the parent is not enrolled in a dental or optical plan, he or she may enroll him/herself and the child in the same plan. No other dependents will be eligible to enroll. If the employee is not eligible

II. STATE OF CALIFORNIA AND FEDERAL DOCUMENTS TO WHICH
THE UNIVERSITY OF CALIFORNIA RESPONDS (Cont.)
F. HEALTH INSURANCE COVERAGE ASSIGNMENT ORDER (Cont.)

for health benefits, the University is not required to cover the supported child. The child may not be enrolled unless the parent is enrolled.

The employee will be granted a Period of Initial Eligibility (PIE) in which to enroll the supported child, if eligible, and make any necessary transfer of his or her own coverage (and that of any covered dependents). Proof of insurability will not be required. The PIE will begin 10 days from the date of service of the order, unless the University receives notice of a motion to quash, in which case it will begin on the date the University receives an order resolving the motion to quash in favor of the person seeking the assignment.

Failure to comply with a Health Insurance Coverage Assignment order would make the University liable for health care expenses which would otherwise have been covered by insurance.

Refer to section III. for additional procedures in response to the service of a Health Insurance Coverage Assignment order.

G. NOTICE OF LEVY--FEDERAL TAXES

The Notice of Levy is a Federal tax lien upon an employee's wages when the employee has neglected or refused to pay Federal taxes.

Disposable earnings. Federal and State income taxes, and FICA and Medicare taxes are exempt from levy by Federal statute. Although other payroll deductions are not exempt from levy by Federal statute, the IRS generally chooses not to enforce the levy on them. Therefore, unless the IRS specifically directs otherwise, usual payroll deductions in effect at the time the notice is received are not included in calculating the employee's disposable earnings (in this case, take-home pay) for the purpose of determining the amount to be withheld. New payroll deductions cannot be added while the levy is in effect.

A levy against earnings for Federal taxes is continuous from the date the levy is first made until the University receives a release from the IRS, or until it becomes unenforceable by the IRS's failure to attempt to collect the tax within the period provided by the

statute of limitations. Except for certain exemptions--such as Workers' Compensation and the exempt amount of wages, as specified in the Notice of Levy--the entire amount of the employee's salary must be forwarded to the IRS under the Notice of Levy until the IRS notifies the University that the employee's wages are released from the levy.

An employee is not automatically entitled to the dependent exemption, even if dependents are claimed on the employee's W-4 form. To obtain the dependent exemption, the employee must file Form 668-W(C), Statement of Exemptions, with the University. One of the requirements to qualify for a dependent exemption is that the employee must have provided more than one-half of the dependent's support during the employee's applicable payroll period.

Any portion of an employee's salary or wages which is already subject to a court-ordered attachment or execution is exempt from the Federal tax levy.

Refer to section III. for additional procedures in response to the service of a Notice of Levy.

H. BANKRUPTCY PROCEEDINGS

Upon receipt of a bankruptcy court order, all or any part of an employee's income, as specified in the order, is remitted to the court-appointed designee. The order remains in effect until withdrawn by the same court of authority.

Exception. The filing of a Chapter 7 (or Chapter 11 but not Chapter 13) bankruptcy petition does not affect the commencement or continuation of deductions for Wage Assignments for child or spousal support or for Earnings Withholding Orders for child or spousal support which were or could have been commenced before the Chapter 7 (or Chapter 11) petition was filed.

When an Earnings Withholding Order is received, the serving sheriff's department should be notified if the employee's file at the campus or Laboratory contains an approved bankruptcy order. If the sheriff's department or its legal representative insists that the Earnings Withholding Order should be honored, it is that department's responsibility (rather than the University's) to contact the court to determine the status of the bankruptcy order. If the order is no longer in effect, the sheriff's department should arrange to have a copy of the Notice of Discharge forwarded to the University.

III. ADDITIONAL PROCEDURES FOR WAGE GARNISHMENT ORDERS

A. GENERAL

All documents described in this chapter should be time-stamped as soon as received. This establishes a presumption to the effective date for action by the University.

If a document is received by the Office of the President, it will be forwarded to the appropriate campus officer. Campuses should establish their own procedures for internal routing and handling.

In general, the campus officer designated by the chancellor to receive such documents is responsible for determining whether the person named in the document is employed by the University. If the person is no longer employed by the University, the levying officer (or government agency) should be so notified.

B. RESPONDING TO LEVYING OFFICER AND NOTIFYING EMPLOYEE

Whenever the University is unable to comply with a new wage garnishment order due to a previously served order, the University must notify the levying officer (or government agency) who served the new order. Whenever the University is required to cease or reduce withholding earnings pursuant to a subsequently served, higher priority order, the University must notify the levying officer (or government agency) who served the order which is being superseded that a supervening order is in effect. (Refer to sections IV. and V.)

1. Earnings Withholding Order

- a) If the person named in the State Earnings Withholding Order is employed by the University, the campus/Laboratory officer should (1) complete the Employer's Return (this is executed under oath) and submit it to the levying officer within 15 days of service of the order, (2) deliver a copy of the Earnings Withholding Order and the Notice to Employee of Earnings Withholding Order to the employee within 10 days of service of the order, and (3) request that the appropriate funds owed the employee be held by the accounting office. An exception to (2) is that a State Jeopardy Withholding Order for Taxes requires immediate delivery to the employee.

- b) If the person is no longer employed by the University, the campus/Laboratory officer should return the order and the Employer's Return to the levying officer within 15 days of service of the order. An explanation of why the order is ineffective should be included in the Employer's Return.

2. Wage Assignment

Within 10 days of service of a State Wage Assignment order on the University, the University is required to deliver a copy of the assignment order to the employee, along with a written statement of the employee's rights under the law to move to quash the assignment. The employee may move to quash a Wage Assignment order within 10 days after receiving notice of the assignment order from the University.

As in the case of an Earnings Withholding Order, the campus/Laboratory officer should (1) request that the appropriate funds owed the employee be held by the accounting office; or (2) promptly return the order to the levying officer, if the person is no longer employed by the University, and explain why the order is ineffective.

3. Health Insurance Coverage Assignment Order

Within 10 days of service of a State Health Insurance Coverage Assignment order, the University is required to deliver a copy of the order to the employee, along with a written statement of the employee's rights under the law to move to quash the assignment. The employee may move to quash a Health Insurance Coverage Assignment order within 10 days after receiving notice of the assignment order from the University.

If the employee is eligible for health insurance coverage and the child meets the University's eligibility rules, the University is required to take steps to commence health insurance coverage for the child within 10 days of service of the order, unless notice of a motion to quash the order is received, as discussed in section II.E. The effective date of coverage or change in coverage will be subject to existing rules. The University must notify the applicant of the effective date of the child's coverage.

III. ADDITIONAL PROCEDURES FOR WAGE GARNISHMENT ORDERS (Cont.)B. RESPONDING TO LEVYING OFFICE AND NOTIFYING EMPLOYEE
(Cont.)

3. Health Insurance Coverage Assignment Order (Cont.)

If the employee is not eligible for health insurance coverage or if the child does not meet the University's eligibility rules, the health insurance assignment order must be returned within 20 days of receipt to the attorney or other person initiating the assignment. If the person is no longer employed by the University, the order should be promptly returned to the attorney or other person initiating the assignment with an explanation why the order is ineffective.

C. COMMUNICATION WITH UCRS

The procedures which follow are in addition to the procedures set forth in subsection III.A., above.

1. State Earnings Withholding Order for Child or Spousal Support,³ and Court Order for Assignment of Wages for Child or Spousal Support

Upon receipt of any of the documents listed above, the campus/Laboratory officer who is responsible for determining whether the person named in the document is employed by the University should immediately send a copy of the document to the University of California Retirement System for action, where appropriate. The copy should be marked either "Employed by _____ campus/Laboratory" or "Not currently employed by _____ campus/Laboratory." A copy of any termination order or release concerning child or spousal support should be similarly annotated and sent to UCRS.

2. Notice of Levy for Federal Taxes

Upon receipt of a Notice of Levy for Federal taxes for a person who is no longer employed, the campus/Laboratory officer who is responsible for determining whether the person named in the document is employed by the University should immediately send a copy of the document to the University of California Retirement System for action, where appropriate. The copy should be marked "Not currently employed by _____ campus/Laboratory." A copy of any notice from the

³ UCRS benefit payments are exempt from garnishment by other types of State Earnings Withholding Orders.

Internal Revenue Service that a levy concerning a person no longer employed by the University has been released should be similarly annotated and sent to UCRS.

IV. ORDER OF PRIORITY

A. STATE

A Wage Assignment for Support made as a result of a court order has priority over any attachment, execution, or other assignment, unless otherwise ordered by the court.

When a Wage Assignment or Assignments include both current support and payments towards the liquidation of arrearages, priority shall be given first to the current child support obligation, then the current spousal support obligation, and thereafter to the Liquidation of child, then spousal, support arrearages.⁴

A Wage Assignment for Support has priority over an Earnings Withholding Order.

An Earnings Withholding Order for Support has priority over any other Earnings Withholding Order.

An Earnings Withholding Order for Taxes has priority over any other Earnings Withholding Order except an Earnings Withholding Order for Support.

The first Earnings Withholding Order which the University is required to recognize and honor prevails over its successors of the same priority. This is why it is important to time-stamp all such documents as they are received. If served with two (or more) Earnings Withholding Orders of the same priority on the same day, the University must comply with the order based on the judgment which was entered first. If both orders are based on judgments entered on the same day, the University may comply with either one.

B. STATE/FEDERAL

That portion of an employee's wages which is subject to court-ordered attachment or execution which pre-dates a Notice of Levy for Federal taxes has priority over the Federal tax lien.

⁴ Arrearages of payment are defined as payments owed and unpaid on the date that the employee has been given notice of the order of assignment.

IV. ORDER OF PRIORITY (Cont.)

B. STATE/FEDERAL (Cont.)

A Notice of Levy for Federal taxes which pre-dates a court-ordered garnishment has priority over the garnishment.

C. BANKRUPTCY PROCEEDINGS

Upon notification by a bankruptcy court that a Chapter 7 (or Chapter 11) bankruptcy petition has been filed, all collection effort is automatically stopped except for support judgments (i.e., Wage Assignments or Earnings Withholding Orders for child or spousal support). However, if notice is received that a Chapter 13 petition has been filed, deductions for support judgments should be discontinued. In other words, only in the case of a Chapter 13 petition should processing support judgments be discontinued for any wages earned after the petition was filed.

V. PROCEDURES WHEN MORE THAN ONE WAGE GARNISHMENT ORDER IS RECEIVED

As explained more fully in section III. of this chapter, whenever the University is unable to comply with any wage garnishment order, the University must so notify the levying officer who served the order which is ineffective in full or in part.

A. EARNINGS WITHHOLDING ORDER vs. SUBSEQUENT EARNINGS WITHHOLDING ORDER (ORDINARY MONEY JUDGMENTS)

The University should not withhold pursuant to two Earnings Withholding Orders on ordinary money judgments at the same time. Thus, if an Earnings Withholding Order is served while the University is required to comply with another Earnings Withholding Order for the same employee, the subsequent Earnings Withholding Order is ineffective unless the subsequent earnings withholding order is for support or for State taxes (refer to subsections V.B. and V.D., below). The University should not hold the subsequent, ineffective order and give it effect when the prior order expires; the ineffective order should be returned promptly to the levying officer.

B. EARNINGS WITHHOLDING ORDER vs. EARNINGS WITHHOLDING ORDER FOR TAXES

Service of an order for the collection of State taxes suspends the University's duty to withhold pursuant to a prior order (other than an order for support). The University should withhold only pursuant to the tax

order until the tax debt is completely paid. If the Earnings Withholding Order for Taxes is satisfied during the withholding period of the prior Earnings Withholding Order, the University must then again withhold pursuant to the prior order.

C. EARNINGS WITHHOLDING ORDER FOR TAXES vs. SUBSEQUENT EARNINGS WITHHOLDING ORDER FOR TAXES

The University should not withhold pursuant to two Earnings Withholding Orders for Taxes at the same time. Thus, if an order for taxes is served while the University is required to comply with another order for taxes for the same employee, the University must not withhold pursuant to the second order and must promptly notify the agency which issued or obtained the second order of the reason for this action.

D. EARNINGS WITHHOLDING ORDER vs. EARNINGS WITHHOLDING ORDER FOR SUPPORT

Both an Earnings Withholding Order for an ordinary money judgment and an Earnings Withholding Order for Support may be in effect at the same time; the order for support is given priority. Thus, the amount withheld for support is deducted from the employee's earnings first. The amount, if any, that may be withheld pursuant to the other Earnings Withholding Order is determined by subtracting the amount withheld pursuant to the Earnings Withholding Order for Support from the amount that otherwise could be withheld pursuant to the other Earnings Withholding Order.

1. Formula

Amount that otherwise could be withheld on the Earnings Withholding Order (generally, 25% of disposable earnings)

-Amount withheld pursuant to the Earnings Withholding Order for Support

=Amount (if any) remaining to withhold on the Earnings Withholding Order

2. Example

An employee has \$1,000 monthly disposable earnings. Up to \$250 (25%) may be withheld pursuant to the Earnings Withholding Order. In this example, the Earnings Withholding Order for Support attaches only \$200 per month (less than the usual 50%). The balance \$50 per month should be applied against the Earnings Withholding Order.

V. PROCEDURES WHEN MORE THAN ONE WAGE GARNISHMENT ORDER IS RECEIVED (Cont.)

E. EARNINGS WITHHOLDING ORDER FOR TAXES vs. EARNINGS WITHHOLDING ORDER FOR SUPPORT

Both an Earnings Withholding Order for Taxes and an Earnings Withholding Order for Support may be in effect at the same time; the order for support is given priority. Thus, the amount withheld for support is deducted from the employee's earnings first. The amount, if any, that may be withheld pursuant to the Earnings Withholding Order for Taxes is determined by subtracting the amount withheld pursuant to the Earnings Withholding Order for Support from the amount that otherwise could be withheld pursuant to the Earnings Withholding Order for Taxes.

1. Formula

Amount that otherwise could be withheld on the Earnings Withholding Order for Taxes (generally, 25% of disposable earnings)

-Amount withheld pursuant to the Earnings Withholding Order for Support

=Amount (if any) remaining to withhold on the Earnings Withholding Order for Taxes

2. Example

An employee has \$1,000 monthly disposable earnings. Up to \$250 (25%) may be withheld pursuant to the Earnings Withholding Order for Taxes. In this example, the Earnings Withholding Order for Support attaches only \$200 per month (less than the usual 50%). The balance \$50 per month should be applied against the Earnings Withholding Order for Taxes.

F. EARNINGS WITHHOLDING ORDER vs. WAGE ASSIGNMENT FOR SUPPORT

Both an Earnings Withholding Order and a Wage Assignment for Support may be in effect at the same time; the Wage Assignment is given priority. Thus, the amount withheld pursuant to the assignment for support is deducted from the employee's earnings first. The amount, if any, that may be withheld pursuant to the Earnings Withholding Order is determined by subtracting the amount withheld pursuant to the Wage Assignment for Support from the amount that otherwise could be withheld pursuant to the Earnings Withholding Order.

1. Formula

Amount that otherwise could be withheld on the Earnings Withholding Order (generally, 25% of disposable earnings)

-Amount withheld pursuant to the Wage Assignment for Support

=Amount (if any) remaining to withhold on the Earnings Withholding Order

2. Example

An employee has \$1,000 monthly disposable earnings. Up to \$250 (25%) may be withheld pursuant to the Earnings Withholding Order. In this example, the Wage Assignment for Support attaches only \$200 per month. The balance \$50 per month should be applied against the Earnings Withholding Order.

G. EARNINGS WITHHOLDING ORDER FOR TAXES vs. WAGE ASSIGNMENT FOR SUPPORT

Both an Earnings Withholding Order for Taxes and a Wage Assignment for Support may be in effect at the same time; the Wage Assignment is given priority. Thus, the amount withheld pursuant to the assignment for support is deducted from the employee's earnings first. The amount, if any, that may be withheld pursuant to the Earnings Withholding Order for Taxes is determined by subtracting the amount withheld pursuant to the Wage Assignment for Support from the amount that otherwise could be withheld pursuant to the Earnings Withholding Order for Taxes.

1. Formula

Amount that otherwise could be withheld on the Earnings Withholding Order for Taxes (generally, 25% of disposable earnings)

-Amount withheld pursuant to the Wage Assignment for Support

=Amount (if any) remaining to withhold on the Earnings Withholding Order for Support

V. PROCEDURES WHEN MORE THAN ONE WAGE GARNISHMENT ORDER IS RECEIVED (Cont.)

G. EARNINGS WITHHOLDING ORDER FOR TAXES vs. WAGE ASSIGNMENT FOR SUPPORT (Cont.)

2. Example

An employee has \$1,000 monthly disposable earnings. Up to \$250 (25%) may be withheld pursuant to the Earnings Withholding Order for Taxes. In this example, the Wage Assignment for Support attaches only \$200 per month. The balance \$50 per month should be applied against the Earnings Withholding Order for Taxes.

H. EARNINGS WITHHOLDING ORDER FOR SUPPORT vs. WAGE ASSIGNMENT FOR SUPPORT

Both an Earnings Withholding Order for Support and a Wage Assignment for Support may be in effect at the same time; the Wage Assignment is given priority. Thus, the amount withheld pursuant to the assignment for support is deducted from the employee's earnings first. The amount, if any, that may be withheld pursuant to the Earnings Withholding Order for Support is determined by subtracting the amount withheld pursuant to the Wage Assignment for Support from the amount that otherwise could be withheld pursuant to the Earnings Withholding Order for Support.

1. Formula

Amount that otherwise could be withheld on the Earnings Withholding Order for Support (generally, 50% of disposable earnings)

-Amount withheld pursuant to the Wage Assignment for Support

=Amount (if any) remaining to withhold on the Earnings Withholding Order for Support

2. Example

An employee has \$1,000 monthly disposable earnings. Up to \$500 (50%) may be withheld pursuant to the Earnings Withholding Order for Support. In this example, the Wage Assignment for Support attaches only \$400 per month. The balance \$100 per month should be applied against the Earnings Withholding Order for Support.

VI. DOCUMENTS TO WHICH THE UNIVERSITY OF CALIFORNIA DOES NOT NORMALLY RESPOND

The University would not normally respond to any of the following or similar types of documents. Such documents should normally be returned to the sender. Information should be given to the effect that the person is or is not employed by the University of California.

- a) Notice of Garnishment (non-court-ordered), except those Notices of Garnishment issued under Federal law;
- b) Writ of Attachment;
- c) collection letters or letters of inquiry;
- d) letters from attorneys or other interested parties concerning an assignment of wages (other than those involving support of a minor child or spouse pursuant to Civil Code Sections 4390-4390.19 or 4726-4726.1); or
- * e) Garnishment orders and wage assignments from states other than California.⁵ Such orders are unenforceable in California unless (i) the person to whom money is due files a separate action in California to enforce the judgement,⁶ person to whom the support is owed registers the order in a court of California, which will initiate California court action.⁷

VII. REFERENCES

Chapter 11 United States Code, Bankruptcy:

Section 362, Automatic Stay.
Section 1325, Confirmation of Plan.

Internal Revenue Code:

Section 6321, Lien for Taxes.
Section 6331, Levy and Distraint.
Section 6332, Surrender of Property Subject to Levy.
Section 6334, Property Exempt from Levy.

5 Except a child support withholding order, or a withholding order for a defaulted FFEL borrower, issued in another state which must be treated as if it had been issued in the state where the employee works (see Section II.C. and II.D.).

6 CCP 1710.10, et seq.

7 CCP 1653, et seq.

VII. REFERENCES (Cont.)

California Code of Civil Procedure:

Sections 706.010-706.154, Wage Garnishment Law.
Sections 1653, et seq., Revised Uniform Reciprocal
Enforcement of Support Act of 1968.
Sections 1710.10, et seq., Sister State Money
Judgments.

California Civil Code:

Sections 4390-4390.19, pertaining to wage assignments.
Sections 4726-4726.1, pertaining to health insurance
coverage assignments.

Accounting Manual chapter:

R-212-2, Receivables Management.

Assistant Counsel A. Jan Behrsin, Memorandum to University
Controller Joseph A. Pastrone on Notice of Levy-
Federal Taxes, November 9, 1983.

Assistant Counsel A. Jan Behrsin, Memorandum to University
Controller Joseph A. Pastrone on Assignability of Labor
Code Section 4806 and 4804.1 Payments to Safety
Members, November 28, 1983.

Assistant Counsel Martha M. Chase, Memorandum to University
Controller Joseph A. Pastrone on Communication between
the University Payroll Offices and UCRS Whenever a
Notice of Levy Is Received, 6/19/84.

University Counsel Eric K. Behrens, Memorandum to Associate
Vice President Joseph A. Pastrone on Bankruptcy
Proceedings, April 12, 1985.

University Counsel Fred Takemiya, Memorandum to Regional
Supervisor Alta Adams on Wage Assignments Based on
Foreign State Orders, September 4, 1987.

University Counsel Claude Kolm, Memoranda to University
Payroll Coordinator Downen and Senior Analyst Gumz on
Definition of "Disposable Earnings" for the Purpose of
Wage Garnishment, March 21, 1988 and May 5, 1988.

Director Health, Welfare & Cafeteria Benefits Michele E.
French, Memorandum to Senior Analyst Henmi on Health
Insurance Coverage Assignment Orders, December 8, 1989.

Manager Michael O'Neill, Memorandum to Payroll Managers on
Employee Garnishments, December 15, 1997.

Historical note: Some of the materials in this chapter were formerly contained in Business and Finance Bulletin G-7, which was rescinded upon publication of this chapter. Original Accounting Manual chapter first published 2/1/79. Revisions: 3/1/80, 5/1/81, 6/15/83, 9/1/83, 3/1/84, 6/15/85, 4/15/86, 6/1/88, 7/15/71, 12/30/97, 12/30/00, 3/31/03, 9/30/07, and 3/31/08; analyst-Kathy Henmi.

EXHIBIT: SAMPLE COVER LETTER FOR CHECK SENT IN RESPONSE TO ORDER
(Use alternate wording for an Earnings Withholding Order for Support or Taxes, a Wage Assignment, a Notice of Levy for Federal Taxes, or for bankruptcy proceedings, as appropriate.)

(Date) _____

TO: LEVYING OFFICER
(Appropriate Address)

Subject: Earnings Withholding Order

On August 16, 1985, we received an Earnings Withholding Order, dated August 14, 1985, in the Municipal Court for the Whatever Judicial District, in the amount of \$450. This Order was issued against Polly Pageous, who is employed by the University as a food service worker on the Davis campus.

In compliance with this Order, I am enclosing University of California check numbered Q1234 dated September 1, 1985, in the amount of \$150. This represents 25 percent of Ms. Pageous's net disposable earnings due her for the pay period August 1-31, 1985. A check for the same amount will be sent to you on October 1 and again on November 1, 1985, unless we receive a direction of release.

Sincerely,

(Sgd) Gerry Atric
Accounting Officer

Enclosure

cc: Mora Bund, Business Manager