

**Partnership
For
Children:**

**A Guide for Employers or Other Sources of Income regarding
Income Withholding
For Child Support Payments**



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As an employer or source of income to a parent who is obligated to pay child support, you should know some basic facts about the federal and state child support laws and related programs that ensure that all parents support their children. These programs encourage family responsibility, thereby reducing the costs of all taxpayers in providing public assistance benefits for children.

A key feature of these programs requires employers that receive notice of an income withholding order that affects one of their employees to withhold part of that employee's income and transmit the withheld income to the Michigan State Disbursement Unit (MiSDU). In turn, MiSDU releases that money to the child's custodian. All parents who pay court-ordered support are subject to income withholding. The laws require income withholding to start immediately for almost all new or modified support orders.

This pamphlet provides a brief summary of the legal responsibilities of employers or other sources of income in this area.

The Q&A sections that follow will use the terms "employer," "employee," and "income" in their broadest possible sense. For example, "employee" includes traditional employees, independent contractors, and parties to almost any arrangement that results in one person (or business entity) owing money to another person (or business entity) in exchange for goods or services provided.

The Q&A sections will also use the terms "income withholding order" and "notice of income withholding." These are separate documents issued in a two-step sequence by a court and the FOC. First, a judge signs the "income withholding order" and gives it to the FOC. Then the FOC sends a "notice of income withholding" to the employer of the obligated parent. Even though the notice of income withholding will not have a judge's signature, employers are required to obey the instructions of the notice, just as they would obey a court order.

This brochure assumes that there has been a Michigan notice issued to a Michigan employer or other source of income. If the order has been issued by a different state, or to an employer or other source of income that is not located in Michigan, please contact your local FOC office for further information.

(1) Who must withhold income in response to an income-withholding order?

Answer: Any employer or other source of income who receives a notice of income withholding and who owes or will owe income to the employee identified in the order. Income includes, but is not limited to

- salaries, hourly wages, commissions, bonuses, and vacation or sick pay,
- current or future payments due from a profit-sharing plan, pension plan, insurance contract, or annuity, and
- miscellaneous debts owed to the support payer by other individuals or business entities.

(2) Must employers or other sources of income obey an income-withholding order issued by another state?

Answer: The Uniform Interstate Family Support Act allows a court in another state to send an income-withholding notice directly to a support payer's Michigan employer. After receiving the order, the employer must

- (a) treat a notice that appears proper as if it had been issued by a Michigan court,
- (b) immediately provide a copy to the employee, and
- (c) withhold and remit the employee's income.

(3) When must an employer or other source of income start withholding income?

Answer: A notice of income withholding becomes binding on an employer seven days after the employer receives the notice. Notices may be served by ordinary mail or by electronic means. They will specify the date of mailing, the date to begin withholding, and where to send the withheld money.

(4) How soon must an employer or other source of income remit the income that is withheld?

Answer: For Michigan court cases, you must remit the withheld income to MiSDU (the Michigan State Disbursement Unit) and/or to the FOC within three days. Out-of-state court orders may specify a different deadline and a different intermediate recipient.

(5) How will an employer or other source of income know if the court changes the amount that must be withheld?

Answer: In Michigan cases, the FOC whose circuit court ordered the support payments must advise you if the support amount changes. When the FOC sends you a modified notice, you must adjust the withholding amount within seven days after receiving the modified notice.

(6) How long must an employer or other source of income continue to withhold income?

Answer: The income-withholding period remains in effect until it is canceled by the court. The FOC will then send you a written notice to stop the withholding.

(7) What if the employee's income is also subject to a writ of garnishment or other withholding orders?

Answer: Under Michigan law, an order to withhold income for the payment of child support has priority over all other legal processes that affect the same income, including garnishments and other payroll deductions (except tax withholding and other child support orders). Federal bankruptcy law may require an employer to temporarily stop withholding income to pay child support. An employer that receives notice that an employee has obtained a bankruptcy stay should consult an attorney.

(8) What happens if the employer or other source of income does not withhold the income?

Answer: You are personally liable for any amount that you knowingly and intentionally fail to withhold. The court will require you to pay the amount you *should* have withheld even if you already have paid the “same” money to your employee. The court may also find you in contempt of court and impose a fine for failing to obey the withholding order.

(9) Is there any limit on the amount that an employer or other source of income may withhold from an employee’s income?

Answer: Under MCL 552.608 and 552.611a, no more than 50 percent of the employee’s disposable income is allowed to be withheld.

(10) What identifying information must an employer or other source of income provide when remitting withheld income to MiSDU and/or the FOC?

Answer: An employer or other source of income must include the employee's name and social security number, the court case number, the amount remitted, and the date on which the money was withheld from the employee's income. Most of this information will be found on the income withholding notice you will receive. The employer or other source of income must also provide its own federal employer identification number.

(11) What happens if the employer or other source of income receives more than one withholding order that affects the same employee?

Answer: If the total amount ordered to be withheld exceeds the limit imposed by Section 303(b) of the Federal Consumer Credit Protection Act (CCPA), the withholding and distribution of the income must be allocated as follows:

(a) If the total designated as “current support” exceeds 50 percent of disposable income, you must allocate the withheld income up to that limit pro rata among the orders, allocating to each order a percentage equal to the amount of “current support” in that order divided by the total “current support” in all the orders.

(b) If the total designated as “current support” does not exceed the 50 percent maximum, you must first withhold and remit all current support. Next, use any remaining withheld income to pay “past-due support.” Allocate that income according to each order’s designated “past-due support” amount as a percentage of the total past-due support.

(12) Withholding orders usually require an employer or other source of income to pay an employee’s dependent health care premiums directly to the insurer or plan administrator. What if the child support and the insurance premium together total more than 50 percent of the employee’s disposable income?

Answer: First, use the withheld income to pay the full amount of current and past-due support. Then withhold additional income for the insurance premium, but only until the total amount withheld reaches the CCPA limit. You are not required to use your income to pay any portion of the premium unless specifically required to do so by your agreement with the employee.

(14) Must employers or other sources of income who have received income-withholding notices for several employees make separate remittances to MiSDU and/or the FOC for each employee?

Answer: No, you may combine them into a single payment to MiSDU and/or the FOC. Your remittance communication must specify the amount attributable to each employee and include the identifying information listed in Q&A No. 10.

(15) May the employer or other source of income charge the employee for the costs associated with withholding?

Answer: No. Michigan law does not allow employers to charge a fee for processing Michigan income-withholding orders. For orders from other states, you may deduct a fee if allowed to do so by the law of the state that is the employee's principal place of employment.

(16) What if employees tell their employers or other sources of income that they do not owe any child support and demand that all their income is paid to them?

Answer: Your payment in accordance with an order of income withholding discharges your liability to the employee as to that portion of the employee's income. Your employee must contact the court or FOC to address his or her concerns.

(17) What should be done if an employee who is subject to an income-withholding order stops working for the employer or other source of income?

Answer: You must notify the FOC if the employment relationship ends, or is interrupted for a period of 14 or more consecutive days. In the case of termination, you must also provide the FOC with the employee's last known address and the name and address of the employee's new employer (if you have that information).

(18) What happens if the employer or other source of income refuses to hire or if the employer or other source of income takes disciplinary action against a current employee because of an income-withholding order?

Answer: Michigan law makes it a criminal offense to refuse to employ someone, or discharge, discipline, or penalize a current employee because of an income withholding order. This misdemeanor is punishable by a fine up to \$500 and full restitution to the employee, including both reinstatement and back pay.

(19) Is there an obligation required of an employer or other source of income to provide the FOC with any other information about an employee who is subject to an income-withholding order?

Answer: Yes, upon the FOC's request, you must provide the employee's full name and address, social security number, date of birth, amount of wages or other income, and employment status, plus information about any dependent health care coverage that the employee can obtain as a benefit of employment. For former employees and independent contractors, you only have to provide the information to the FOC if the employee was employed three years or less before the date of request. The State Court Administrative Office has standard forms (FOC 22 and FOC 22a) that employers or other sources of income may use to provide that and other information about the employee to the FOC and the court. Employers or other sources of income can view and print those forms at:

<http://courts.michigan.gov/scao/courtforms/domesticrelations/investigation/foc22.pdf>
and <http://courts.michigan.gov/scao/courtforms/domesticrelations/investigation/foc22a.pdf> .

(20) Are there any other types of income withholding directives that must be obeyed by employers or other sources of income?

Answer: Michigan law now allows the FOC to send an income withholding notice to employers or other sources of income regarding fines, fees, and costs that are owed by an employee. These notices are on a separate income withholding notice and the withheld income should be sent directly to the FOC. Normal child support income-withholding notices take precedence over the notices payable to the FOC.

(21) The Q&A's above have referred to "Michigan law" and "the law" several times. What are the statutes that govern child support enforcement?

Answer: Some important laws include:

Friend of the Court Act:

Michigan Compiled Laws 552.501 - 552.535.

Support and Parenting Time Enforcement Act:

Michigan Compiled Laws 552.601 - 552.650.

Uniform Interstate Family Support Act:

Michigan Compiled Laws 552.1101 - 552.1901.

Payment of Wages and Fringe Benefits Act:

Michigan Compiled Laws 408.471 - 408.490.

A Special Note to Employers or Other Sources of Income

You make a valuable contribution to the lives of children when you comply with an income-withholding order by withholding part of an employee's income and forwarding those support payments on a timely basis. Employers and others who provide another source of income are

valued partners in one of the most effective child support enforcement programs in the nation. This partnership between the public and private sectors helps ensure that children have the financial ability to lead happy and healthy lives.