

Hawaii Employer's Guide

Income Withholding for Child Support Obligations

Federal and State laws provide for improved enforcement mechanisms including mandatory income withholding and expedited processes for establishing and enforcing child support orders, whether or not there is an arrearage owed.

Because it taps the non-custodial parent's income at the source and becomes a regularly deducted item like Social Security, withholding has proven to be a very effective tool for enforcing child support obligations.

By withholding income for child support, employers are providing a valuable community service. Withholding ensures that non-custodial parents, who are legally and morally responsible, provide support for their children so the burden does not fall on the taxpayers.

The following is a brief summary of your legal responsibility as an employer under the *Hawaii Revised Statutes Section 571-52, Section 576E-1, and Section 576E-16*.

1. An Order/Notice to Withhold Income will tell you when to begin, how much to deduct, and where to send the support amount withheld. You will also be notified when to stop withholding income. A support order has priority against garnishment, attachment, execution, or other income withholding orders.

2. "Employer" means any person who uses or engages the services of any person in exchange for the payment of wages or other means of exchange, including the United States government, the State, and any political subdivision thereof, and anyone who is or shall become obligated for payment of income.

3. Income is defined as salaries, wages, earnings, workers' compensation, unemployment compensation, disability benefits, commissions, independent contractor income, and any other entitlement to money including pension, annuity, retirement, disability or death benefit.

4. If you fail to withhold support as specified in the Order/Notice to Withhold Income, you will become liable for the full amount you should have withheld from the employee's income.

5. Refusal to hire a person, or the discipline or discharge of an employee because of a child support obligation, is a misdemeanor which carries a fine or imprisonment upon conviction.

6. Withholding must begin no later than the first pay period that occurs within 7 business days after the date the income withholding order or order/notice to withhold income is mailed to you.

7. You must forward the amount withheld to the Child Support Enforcement Agency (CSEA) or to the payee designated on the Order/Notice to Withhold Income within 5 working days after the employee's payday.

8. For each payment you withhold and send to the CSEA or to the designated payee, you may collect a \$2 administrative fee. This fee is to be deducted only from income and not from the support amount.

9. The total amount which may be withheld from any paycheck is limited to that specified by the Consumer Credit Protection Act (CCPA). CCPA limits are 50% of disposable earnings when the non-custodial parent is living with and is supporting a second family or 60% if there is no second family. Each limit is increased by 5% if payments are in arrears 12 weeks or more.

10. You may not change the amount or discontinue the withholding unless you receive a new Order/Notice to Withhold Income or you are notified by the CSEA or the Clerk of the Court. The employee will have been notified of the order and given a chance to contest it. An employee who feels that there is an error in the amount or complains that he/she did not receive notice should be instructed to resolve the matter with the CSEA or the designated payee.

11. If you withhold support for several employees, you may combine the amounts into one check, provided you include a listing of the date and amount withheld for each employee.

12. You must immediately inform the CSEA or the designated payee in writing of any change that would affect your ability to comply with the order. When an employee leaves your firm, you must provide his/her last known address and the name and address of the new employer, if you have that information.

Public Law 96-647 established the Child Support Enforcement Program in 1975 and assigned responsibility for it to the Federal government and the states. In Hawaii, the program is administered through the Department of the Attorney General.

State of Hawaii
Department of the Attorney General
CHILD SUPPORT ENFORCEMENT AGENCY

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