

**Wage and Hour Division, Labor**

**§ 870.11**

Date	Minimum amount	Weekly amount	Biweekly amount	Semi-monthly amount	Monthly rate
Jan. 1, 1981 .....	\$3.35	\$100.50	\$201.00	\$217.75	\$435.50
Apr. 1, 1990 .....	3.80	114.00	228.00	247.00	494.00
Apr. 1, 1991 .....	4.25	127.50	255.00	276.25	552.50

(4) Absent any changes to the rate set forth in section 6(a)(1) of the Fair Labor Standards Act, if the disposable earnings are less than the following figures, only the difference between the

appropriate figures set forth in paragraph (c)(3) of this section and the individual's disposable earnings may be garnished.

Date	Minimum amount	Weekly amount	Biweekly amount	Semi-monthly amount	Monthly rate
Jan. 1, 1981 .....	\$3.35	\$134.00	\$268.00	\$290.33	\$580.67
Apr. 1, 1990 .....	3.80	152.00	304.00	329.33	658.67
Apr. 1, 1991 .....	4.25	170.00	340.00	368.33	736.67

For example, in April of 1990, if an individual's disposable earnings for a bi-weekly pay period are \$274.00, the difference between \$228.00 and \$274.00 (i.e., \$46.00) may be garnished.

(5) If disposable earnings are in excess of the figures stated in paragraph (c)(4) of this section, 25% of the disposable earnings may be garnished.

(d) *Date wages paid or payable controlling.* The date that disposable earnings are paid or payable, and not the date the Court issues the garnishment order, is controlling in determining the amount of disposable earnings that may be garnished. Thus, a garnishment order in November 1990, providing for withholding from wages over a period of time, based on exemptions computed at the \$3.80 per hour minimum wage then in effect, would be modified by operation of the change in the law so that wages paid after April 1, 1991, are subject to garnishment to the extent described in paragraphs (b) and (c) of this section on the basis of a minimum rate of \$4.25 per hour. This principle is applicable at the time of the enactment of any further increase in the minimum wage.

(Sec. 2, Pub. L. 93-259, 84 Stat 55)

[35 FR 8226, May 26, 1970, as amended at 40 FR 52610, Nov. 11, 1975; 43 FR 28471, June 30, 1978; 43 FR 30276, July 14, 1978; 44 FR 30685, May 29, 1979; 56 FR 32254, July 15, 1991; 56 FR 40660, Aug. 15, 1991]

**§ 870.11 Exceptions to the restrictions provided by section 303(a) of the CCPA and priorities among garnishments.**

(a)(1) Section 303(b) of the Consumer Credit Protection Act provides that the restrictions in section 303(a) do not apply to:

(i) Any debt due for any State or Federal tax, or

(ii) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(2) Accordingly the Consumer Credit Protection Act does not restrict in any way the amount which may be withheld for State or Federal taxes or in Chapter XIII Bankruptcy Act proceedings.

(b)(1) Section 303(b) provides the following restrictions on the amount that may be withheld for the support of any person (e.g. alimony or child support):

(A) Where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is issued), 50 per centum of such individual's disposable earnings for that week; and

(B) Where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week; except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be

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deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve week period which ends with the beginning of such workweek.

(2) Compliance with the provisions of section 303(a) and (b) may offer problems when there is more than one garnishment. In that event the priority is determined by State law or other Federal laws as the CCPA contains no provisions controlling the priorities of garnishments. However, in no event may the amount of any individual's disposable earnings which may be garnished exceed the percentages specified in section 303. To illustrate:

(i) If 45% of an individual's disposable earnings were garnished for taxes, and this garnishment has priority, the Consumer Credit Protection Act permits garnishment for the support of any person of only the difference between 45% and the applicable percentage (50 to 65%) in the above quoted section 303(b).

(ii) If 70% of an individual's disposable earnings were garnished for taxes and/or a Title XIII Bankruptcy debt, and these garnishments have priority, the Consumer Credit Protection Act does not permit garnishment either for the support of any person or for other debts.

(iii) If 25% of an individual's disposable earnings were withheld pursuant to an ordinary garnishment which is subject to the restrictions of section 303(a), and the garnishment has priority in accordance with State law, the Consumer Credit Protection Act permits the additional garnishment for the support of any person of only the difference between 25% and the applicable percentage (50-65%) in the above quoted section 303(b).

(iv) If 25% or more of an individual's disposable earnings were withheld pursuant to a garnishment for support, and the support garnishment has priority in accordance with State law, the Consumer Credit Protection Act does not permit the withholding of any additional amounts pursuant to an ordinary garnishment which is subject to the restrictions of section 303(a).

[44 FR 30685, May 29, 1979]

**29 CFR Ch. V (7-1-06 Edition)**

**Subpart C—Exemption for State-Regulated Garnishments**

**§ 870.50 General provision.**

Section 305 of the CCPA authorizes that Secretary to "exempt from the provisions of section 303(a) garnishments issued under the laws of any State if he determines that the laws of that State provide restrictions on garnishment which are substantially similar to those provided in section 303(a)."

**§ 870.51 Exemption policy.**

(a) It is the policy of the Secretary of Labor to permit exemption from section 303(a) of the CCPA garnishments issued under the laws of a State if those laws considered together cover every case of garnishment covered by the Act, and if those laws provide the same or greater protection to individuals. Differences in text between the restrictions of State laws and those in section 303(a) of the Act are not material so long as the State laws provide the same or greater restrictions on the garnishment of individuals' earnings.

(b) In determining whether State-regulated garnishments should be exempted from section 303(a) of the CCPA, or whether such an exemption should be terminated, the laws of the State shall be examined with particular regard to the classes of persons and of transactions to which they may apply; the formulas provided for determining the maximum part of an individual's earnings which may be subject to garnishment; restrictions on the application of the formulas; and with regard to procedural burdens placed on the individual whose earnings are subject to garnishment.

(c) Particular attention is directed to the fact that subsection (a) of section 303, when considered with subsection (c) of that section, is read as not requiring the raising of the subsection (a) restrictions as affirmative defenses in garnishment proceedings.

**§ 870.52 Application for exemption of State-regulated garnishments.**

(a) An application for the exemption of garnishments issued under the laws of a State may be made in duplicate by a duly authorized representative of the State. The application shall be filed