

**INSTRUCTIONS TO
FEDERAL AGENCIES**

**Preparing
Administrative Wage
Garnishment Forms
SF-329**

April 2005

**U.S. Department of the Treasury
Financial Management Service
Debt Management Services**

**Instructions to Federal Agencies
Preparing Administrative Wage Garnishment Forms**

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Instructions to Federal Agencies Preparing Administrative Wage Garnishment Forms

Purpose

This document explains how Federal Agencies prepare administrative wage garnishment orders by using Standard Form 329 (SF-329). This document does not confer any rights that a person would not otherwise have, nor does failure to follow the instructions contained in this document necessarily invalidate an administrative wage garnishment order.

Background

Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a wage garnishment order issued by the creditor.

A Federal Agency collecting delinquent, non-tax debt may garnish the wages of a debtor without first obtaining a court order. This process, known as Administrative Wage Garnishment (AWG), is authorized by section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358 (Apr. 26, 1998), codified at 31 U.S.C. ' 3720D. The rules and procedures governing administrative wage garnishment were published as a Final Rule in the *Federal Register* on May 6, 1998 (63 FR 25136).

In accordance with the Final Rule, the Financial Management Service (FMS), a bureau of the U.S. Department of the Treasury, promulgated Standard Form 329 (SF-329) which Federal agencies are required to use to issue AWG orders.

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Paperwork Reduction Act

The administrative wage garnishment process under the DCIA is an administrative action taken by a Federal Agency against a debtor's employer. Therefore, any collection of information under the AWG order is exempt from the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. ' 3501 *et seq.*).

See 44 U.S.C. ' 3518(c)(1)(B)(ii)

- Act does not apply to the collection of information during the conduct of an administrative action involving an agency against specific individuals or entities.

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AWG Statutory and Regulatory Requirements

Federal Agencies must ensure that AWG orders are issued in accordance with the requirements of the DCIA and the Final Rule. Before issuing any AWG orders, agencies should review the requirements of 31 U.S.C. ' 3720D and 31 C.F.R. ' 285.11 (63 FR 25136, May 6, 1998) with their agency counsel.

1. Notice to the debtor. At least 30 days before an agency initiates garnishment proceedings, the agency must give the debtor written notice informing him or her of the nature and amount of the debt, the intention of the agency to collect the debt through deductions from pay, and an explanation of the debtor's rights regarding the proposed action.
2. Due process. The agency must provide the debtor with an opportunity to inspect and copy the agency's records related to the debt, to establish a repayment agreement, and to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule.
3. Hearings. Agencies must prescribe regulations for the conduct of AWG hearings. A hearing must be held prior to the issuance of an AWG order if the debtor's request is timely received. For hearing requests that are not received in the specified time frame, an agency need not delay the issuance of the AWG order prior to conducting a hearing. The hearing official must issue a written decision no later than 60 days after the date on which the request for such hearing was received by the agency.

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Preparing the AWG Form

Unless the agency receives information that the agency believes justifies a delay or cancellation of the AWG order, the agency issuing the AWG order is required to send, by first class mail, an AWG order to the debtor's employer (1) within 30 days after the debtor fails to make a timely request for a hearing, or, (2) if the debtor made a timely request for a hearing, within 30 days after a final decision is made by the agency to proceed with the garnishment.

The AWG Form (SF-329) consists of four documents. The agency issuing the AWG order should mail all of the following 4 documents in one package to the employer after preparing the package in accordance with the instructions described in subsequent sections:

1. Letter to Employer & Important Notice to Employer (SF-329A)
2. Wage Garnishment Order (SF-329B)
3. Wage Garnishment Worksheet (SF-329C)
4. Employer Certification (SF-329D)

Letter to Employer & Important Notice to Employer (SF-329A)

The agency is not required to insert any information on the Letter to Employer & Important Notice to Employer. This document explains the purpose of the AWG order and alerts the employer to its responsibility to comply with the directions contained in the AWG order as well as the employer's legal obligations with respect to the AWG order.

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Wage Garnishment Order (SF-329B)

The Wage Garnishment Order must be completed by the agency issuing the AWG order in accordance with the following instructions.

Box

- 1 *Date of this Order.* Insert the date the agency issued the AWG order. The date the agency issued the order is the date an agency official determines that the debtor failed to make a timely request for a hearing, or if the debtor made a timely request for a hearing, the date a final decision is made by the agency to proceed with the garnishment.
- 2 *Date Mailed to Employer.* Insert the date the agency mailed the AWG order. Agencies should take the necessary steps to ensure that the AWG order is mailed the same day as the date inserted in this box.
- 3 *Creditor Agency Tracking No.* Insert the number used by the agency to identify the AWG order.
- 4 *Employee Name / Employee Alias Name.* Insert the full name of the debtor on file and any alias names by which the debtor may be known at his place of employment.
- 5 *Employee Social Security No.* Insert the debtor's social security number.
- 6-7 *Employer and Employer Mailing Address.* Insert the complete legal name and mailing address of the debtor's employer. Agencies should not abbreviate the name of the employer. For example, *Donut Shop of America* should not be shortened to *Donut Shop* as the latter may be a different entity. To the extent practical, agencies should contact the debtor's employer to obtain the legal name and address of the debtor's employer. For corporations, agencies may verify the information with the centralized corporation records maintained by the State in which the employer is doing business. For other entities, agencies may verify the information with centralized records maintained by the county or town in which the employer is doing business.

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Box #

- 8-9 *Creditor Agency and Creditor Agency Mailing Address for Correspondence.* Insert the complete name and mailing address of the agency issuing the AWG order. Agencies should be identified as agencies of the United States, for example, *U.S. Department of the Treasury* rather than *Department of the Treasury*, to avoid confusion with State agencies with similar names.
- 10-13 *Contact Name, Telephone No., Internet e-mail address, and Fax No.* Insert the name, telephone number (with area code), internet e-mail address, and fax number (with area code) of a person within the creditor agency who can respond promptly to questions about the information contained in the AWG order.
- 14-15 *Amount Due and As of (Month/Day/Year).* Insert the total amount due and the date this amount was calculated. Agencies should ensure that the amount due includes all interest, penalties, and other costs as of the date listed in the *As of* box.
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Section 1. Order

- 16-20 *ABA Routing No., Account No., Agency Location Code (ALC) No., Account Title, and Other information required (i.e., tracking no., debtor name, etc.).* At this time, our system cannot receive and process electronic payment files from employers administering AWG orders. Leave these fields blank.
- 21 *Mailing address for check payments.* Insert the address to which the employer may mail check payments for amounts withheld under the AWG order.

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Section 2. Wage Garnishment Amount.

(a) If the agency has agreed with the debtor to an exact dollar amount to be deducted from the debtor's wages, insert the dollar amount in Section 2(a). For example, if the agency and the debtor agree that \$100 per pay period may be deducted from the debtor's wages, insert *100* after the \$__ in Section 2(a). If Section 2(a) is completed, the agency should skip Section 2(b) and proceed to *Creditor Agency Certification*.

(b) If Section 2(a) is not completed (because the agency and debtor have not agreed to an exact dollar amount to be deducted from the debtor's wages), the agency **must** complete Section 2(b)(1). Insert the percentage of the debtor's disposable pay that the employer is ordered to deduct. **The percentage will be 15% unless the agency either agrees to a different percentage, or is ordered by a hearing official to accept a different percentage, e.g., 10%.**

Creditor Agency Certification.

The head of the agency, or his or her delegatee, **must** sign the Wage Garnishment Order. The delegatee must be an official or employee of the agency. In addition, the signatory's printed name and title should be printed or typed where indicated.

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Wage Garnishment Worksheet (SF-329C)

The agency is not required to insert any information on the Wage Garnishment Worksheet. The Worksheet may be used by the employer to calculate the Wage Garnishment Amount to be deducted from a debtor's disposable pay under the AWG order. At the agency's option, the agency may insert the *debtor name* and *social security number* as a convenience to the employer. The agency must include the Worksheet as part of the AWG order form even if the Wage Garnishment Order specifies a dollar amount to be withheld because the employer may wish to attach the Worksheet to the Employer Certification. See paragraph #3 of the *Employer Certification*.

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Employer Certification (SF-329D)

The information on the Employer Certification to be completed by the agency issuing the AWG order duplicates some of the information required to be provided by the agency on the Wage Garnishment Order (SF-329B) as instructed above. The agency issuing the AWG order must complete the following:

Date of this Order. Insert the date the agency issued the order from Box #1 of the Wage Garnishment Order.

Date Mailed to Employer. Insert the date the agency mailed the order from Box #2 of the Wage Garnishment Order.

Creditor Agency Tracking No. Insert the number used by the agency to identify the AWG order from Box #3 of the Wage Garnishment Order.

Employee Name. Insert the full name of the debtor and any alias names by which the debtor may be known from Box #4 of the Garnishment Order.

Employee Social Security No. Insert the debtor's social security number from Box #5 of the Wage Garnishment Order.

Creditor Agency and Creditor Agency Mailing Address for Correspondence. Insert the complete name and mailing address of the agency issuing the AWG order from Boxes #8-9 of the Wage Garnishment Order.

The **employer** is required to complete the rest of the Employer Certification and to return the completed Employer Certification to the agency issuing the AWG order. An authorized representative of the employer is required to sign and date the Employer Certification at the bottom of page 2 of the Employer Certification.

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How to Obtain AWG Forms

Creditor agencies may obtain AWG forms (SF-329) from FMS' web site at:
<http://www.fms.treas.gov/debt/awg.html#forms>.

Inquiries

Any inquiries may be made to:

U.S. Department of the Treasury
Financial Management Service
Debt Management Services
Cross-Servicing Division
3700 East-West Highway
Hyattsville, MD 20782
Attn: Richard Burnham, Manager, Private Collection Branch
Telephone: (202) 874-5879
Facsimile: (202) 874-8024

For additional information on AWG and or the entire debt collection program,
please visit FMS' website at: <http://fms.treas.gov/debt/crosserv.html>.