6-23/100.00 Earnings Withholding Orders

The Wage Garnishment Law prescribes the procedures for levying against earnings of a judgment debtor, commonly known as an “Earnings Withholding Order.” In the case of child or spousal support, the earnings of the debtor may be garnished by a withholding order for support issued by the local child support agency and an earnings assignment order.

(CCP 706.020, 706.021)

• 6-23/110.00 Definitions

The following definitions are used in the Wage Garnishment Law. (CCP 706.011)

• • 6-23/110.10 Earnings

"Earnings" means compensation payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise.

• • 6-23/110.20 Earnings Assignment Order for Support

"Earnings assignment order for support" means an order, made pursuant to Earnings Assignment Order in the Family Code or Probate Code 3088, which requires an employer to withhold earnings for support.

• • 6-23/110.30 Employee

"Employee" means a public officer and any individual who performs services subject to the right of the employer to control both what shall be done and how it shall be done.

• • 6-23/110.40 Employer

"Employer" means a person for whom an individual performs services as an employee.

• • 6-23/110.50 Judgment Creditor

"Judgment creditor," as applied to the state, means the specific state agency seeking to collect a judgment or tax liability.

• • 6-23/110.60 Judgment Debtor

"Judgment debtor" includes a person from whom the state is seeking to collect a tax liability under Article 4, whether or not a judgment has been obtained on such tax liability.

• • 6-23/110.70 Person

"Person" includes an individual, a corporation, a partnership or other unincorporated association, a limited liability company, and a public entity.

• 6-23/120.00 Spouseâ€™s Earnings

An earnings withholding order may not be issued against the earnings of the spouse of the judgment debtor except by court order upon noticed motion. (CCP 706.109)

• 6-23/130.00 Forms

The California Courts Judicial Council may provide by rule for the practice and procedure for earnings withholding orders, notwithstanding any other provision of law. (CCP 706.100) Consequently, any direction contained on a form, whether to the levying officer or other person, shall have the force of law and must be complied with.
The following prescribed forms are mandated (CCP 706.120, 681.030):
Application for Earnings Withholding Order (WG-001)
Earnings Withholding Order (with Instructions to Employer on reverse) (WG-002)
Confidential Statement of Judgment Debtor's Social Security Number (WG-035)
Earnings Withholding Order for Elder or Dependent Adult Financial Abuse (WG-030)
Employee Instructions (WG-003)
Earnings Withholding Order for Support (with Employer's Instructions on reverse) (WG-004)
Employer's Return (WG-005)
Notice of Termination or Modification of Earnings Withholding Order (WG-012)
Exemptions from the Enforcement of Judgments (EJ-155)
Current Dollar Amounts of Exemptions from Enforcement of Judgments (EJ-156)
Notice of Filing Claim of Exemption (WG-008)
Notice of Opposition to Claim of Exemption (WG-009)
Notice of Hearing on Claim of Exemption (WG-010)
Order Determining Claim of Exemption (WG-011)
The levying officer shall have copies of the following forms available at the levying officer's office for distribution without charge to a person who desires to make a claim of exemption for family of the judgment debtor, including the spouse or former spouse of the judgment debtor as described in

CCP 706.051. (CCP 706.129)
Claim of Exemption (WG-006)
Financial Statement (WG-007)

• 6-23/140.00 Types of Garnishments Involving Wages

• • 6-23/141.00 Earnings Assignment Order for Support

An earnings assignment order for support shall be given priority over any earnings withholding order. (CCP 706.031)

• • 6-23/142.00 Earnings Withholding Order for Support

Upon receipt of an application which states the writ of execution was issued to collect delinquent child or spousal support, the levying officer shall issue a withholding order for support. (CCP 706.030) The Los Angeles County Sheriff's Department does not serve Earnings Withholding Orders for child support. Please see 6-23/142.10.

• • • 6-23/142.10 Local Child Support Agency

The local child support agency may also issue and enforce a withholding order for support. (CCP 706.030(b))

• • 6-23/143.00 Earnings Withholding Order for Taxes

This type of earnings withholding order is issued by a state agency seeking to collect state tax liability rather than the sheriff, constable, or marshal. The agency is deemed to be the "levying officer." (CCP 706.073) The Los Angeles County Sheriff's Department does not serve Earnings Withholding Orders for Taxes. (CCP 706.102(b))

• • 6-23/144.00 Final Earnings Withholding Order for Cost and Interest

This type of earnings withholding order is for the collection of unsatisfied costs and interest. This order is only issued after an earlier earnings withholding order has been returned satisfied. Interest ceases to accrue on the date of issuance of the final earnings withholding order, and no additional cost may be added after that date, except for the statutory fee for service of the order and any other statutory fee for performing duties under the order. (CCP 706.028)

• • 6-23/145.00 Earnings Withholding Order

Upon receipt of an application for earnings withholding order from the judgment creditor which does not state the writ of execution was issued to collect delinquent child or spousal support, the levying officer shall issue this type of earnings withholding order.

• 6-23/150.00 Issuance of Earnings Withholding Orders

The term “issue” means that the officer completes the earnings withholding order forms in preparation for service. To do this, the original earnings withholding order and a copy is completed, using the information provided in the application and the writ. The officer must also complete the upper portion of the front side of the Employer’s Return (everything above “Employer: Complete this form”) except the space provided for the employer to indicate the name of the person to whom notices should be sent.

The levying officer in the county where the judgment debtor’s employer is to be served must receive an original writ of execution, and a completed and signed application for earnings withholding order for each earnings withholding order to be served. The application shall be operative as the written and signed instructions to the levying officer and contains all the information required for service of the earnings withholding order. The application must be signed by declaration under the penalty of perjury. In all cases a signature must appear on the line for declarant’s signature. The declarant, however, need not be the attorney or party whether with or without an attorney. The signature of the attorney or party without an attorney is necessary to give the levying officer the protection from liability afforded by CCP 262, 687.010, and 687.040. Therefore, if the attorney or party without an attorney signs the application as the declarant under the penalty of perjury, the one signature is sufficient. If, however, the declarant’s signature is not of the attorney or party without an attorney, then, in addition to the declarant’s signature, the signature of the attorney or party without an attorney must appear in the space provided therefor above the declaration.

• • 6-23/151.00 The State of California Employment Development Department

The State of California Employment Development Department (EDD) may issue an earnings withholding order directly, without the use of a levying officer, to collect overpayments of unemployment compensation or disability benefits. An earnings withholding order issued by EDD shall be served by registered or certified mail, postage prepaid, with return receipt requested. If EDD does not receive a return receipt within 15 days from the date of deposit in the mail of the withholding order, EDD shall refer the earnings withholding order to a levying officer for service. Although authorized to issue and serve an earnings withholding order, EDD is not a levying officer and lacks the authority to process claims of exemption and receive and disburse monies pursuant to an

earnings withholding order. (CCP 706.101(c))

Consequently, The Sheriff is not involved and lacks authority until such time EDD provides the Sheriff with the following:

$35 Fee (GOV 26750)

Application for Earnings Withholding Order

EDD's Proof of Service of the earnings withholding order (EDD's proof of service shall be attached to the Sheriff's return when the writ is returned to court.)

Writ of Execution for Money Judgment

If EDD refers the issuance and service of an earnings withholding order to the Sheriff, the standard procedures for processing an earnings withholding order shall be followed.

• 6-23/160.00 Contents of Earnings Withholding Order

The "earnings withholding order" shall include all of the following (CCP 706.125):

- The name, address, and, if known, the social security number of the judgment debtor.
- The name and address of the employer to whom the order is directed.
- The court where the judgment was entered, the date the judgment was entered, and the name of the judgment creditor.
- The date of issuance of the writ of execution to the county where the earnings withholding order is sought.
- The total amount required to satisfy the order on the date of issuance (which may not exceed the amount required to satisfy the writ of execution on the date of issuance of the order plus the levying officer's statutory fee for service of the order).
- A description of the withholding period and an order to the employer to withhold from the earnings of the judgment debtor for each pay period the amount required to be withheld under CCP 706.050 or the amount specified in the order subject to CCP 706.024, as the case may be, for the pay periods ending during the withholding period.
- An order to the employer to pay over to the levying officer at a specified address the amount required to be withheld and paid over pursuant to the order in the manner and within the times provided by law.
- An order that the employer fill out the "employer's return" and return it by first-class mail, postage prepaid, to the levying officer at a specified address within 15 days after service of the earnings withholding order.
- An order that the employer deliver to the judgment debtor a copy of the earnings withholding order and the "notice to employee of earnings withholding order" within 10 days after service of the earnings withholding order; but, if the judgment debtor is no longer employed by the employer and the employer does not owe the employee any earnings, the employer is not required to make such delivery.
- The name and address of the levying officer.

• 6-23/170.00 Additional Costs

If an earnings withholding order is outstanding at the time costs are added to the judgment, the levying officer shall add the amount of those costs to the amount to be collected pursuant to the earnings withholding order if the levying officer receives either of the following before the earnings withholding order is returned and before distribution is made (CCP 685.090):

1. a certified copy of the court order allowing costs or
2. a certificate from the clerk of the court that the costs have been added to the judgment after a memorandum of costs has been filed.