

§3816. Income withholding

1. Payor duty. Twenty-one days after the department has served a notice to repay, the department may serve an income withholding order upon the obligor's employer or other payor of income to collect the amount of the overpayment not recouped, repaid or otherwise recovered by the department, unless collection action is stayed in accordance with section 3813, subsection 6. Upon receipt of an income withholding order issued by the department, the employer or other payor of income shall begin withholding immediately from the obligor's income the amount specified in the withholding order. Income withheld must be sent to the department within 10 days of the date of the withholding. The department shall send the obligor a copy of an income withholding order issued under this section to the obligor's most recent address of record.

[PL 1993, c. 654, §1 (NEW).]

2. Withholding order; payor notice. An income withholding order must state:

A. The name of the obligor; [PL 1993, c. 654, §1 (NEW).]

B. The amount owed to the department; [PL 1993, c. 654, §1 (NEW).]

C. The amount of income that the employer or other payor of income is required to withhold; [PL 1993, c. 654, §1 (NEW).]

D. That withholding must take place when the obligor is normally paid and that income withheld must be sent to the department within 10 days of each withholding; [PL 1993, c. 654, §1 (NEW).]

E. That the withholding order applies to current and subsequent periods of employment; [PL 1993, c. 654, §1 (NEW).]

F. The income exemption amount and limitation on withholding provided for by this chapter; and [PL 1993, c. 654, §1 (NEW).]

G. The substance of any other rights, obligations and liabilities of the employer or other payor of income provided for or imposed by this chapter. [PL 1993, c. 654, §1 (NEW).]

[PL 1993, c. 654, §1 (NEW).]

3. Limitation of amount. An income withholding order may not exceed 25% of the obligor's gross income and is subject to the income exemption amounts specified in section 3815.

[PL 1993, c. 654, §1 (NEW).]

4. Hearing. An obligor may request a hearing to contest the issuance of an income withholding order. A request for hearing must be received by the department within 30 days of the date of mailing of the obligor's copy of the withholding order. The department shall notify the obligor in writing of the right to hearing at the time of mailing of the obligor's copy of the withholding order. At hearing the obligor may contest the accuracy of the income withholding order and whether the order was issued in accordance with the requirements of this section. The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV.

[PL 1993, c. 654, §1 (NEW).]

5. Decision after hearing. The department shall render a decision after hearing without undue delay as to the accuracy of the terms of the withholding order and whether the order was issued in accordance with the requirements of this section. The decision must be based on the hearing record and rules adopted by the commissioner. A copy of the decision must be sent to the obligor's most recent address of record. The decision must state that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision.

[PL 1993, c. 654, §1 (NEW).]

6. Duration of withholding. An income withholding order remains in effect until:

A. Released in writing by the department; or [PL 1993, c. 654, §1 (NEW).]

B. The order is released or superseded by a subsequent court order. [PL 1993, c. 654, §1 (NEW).]
[PL 1993, c. 654, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 654, §1 (NEW).

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