

Friend of the Court – Employer Information

FAQ:

What laws pertain to income withholding?

- Friend of the Court Act: Michigan compiled Law 552.501-552.535; also found in Michigan Statutes annotated 25.176(1)-25.176(35)
- Support and Visitation Enforcement Act: Michigan Compiled Law 552.601-552.650; also found in Michigan Statutes Annotated 25.164(1)-25.164(50)
- Consumer Credit Protection Act: Title III, Section 303(b) of Public Law 90-321, 15 USC, 1673(b)

Who must withhold income?

Any employer or other person, referred to as a "*source of income*", who owes or will owe income to the payer (the person owing money under a support order).

Income is broadly defined to include (among other things):

- Salaries, earnings, wages and commissions; payments due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, or annuity.
- Any amount of money due to the payer as a debt of any other person, including debts of all kinds of businesses.

When must income be withheld?

An order of income withholding is binding on an employer seven days after the employer is served by ordinary mail with a true copy of the order of income withholding. Included with the order will be a notice of income withholding, which will give the date of the mailing, the date to begin withholding, and where to send the money withheld.

How long do I continue withholding money?

The order remains in effect until further order of the court or until the employer is notified otherwise in writing by the Friend of the Court.

What if the employee's income is subject to garnishment or other withholding orders?

An order of income withholding for child support has priority over all other legal process under state law against the same income. This means it takes precedence over garnishments and other payroll deductions (except taxes, social security deductions and other income withholding orders for support).

What happens if I don't withhold the money?

An employer's failure to comply with an order of income withholding within seven days of service may result in contempt finding by the court against the employer.

How do I know if the amount to be deducted changes?

The Friend of the Court is required to advise the employer if the order is changed. If the Friend of the Court serves the employer with a notice of modification of the order of income withholding, the amount withheld must be changed to conform to the court ordered modification within seven days after receipt of the notice of modification.

Isn't there some limit to the amount I may deduct?

The maximum amount taken out must comply with Section 303(b) of Title III of the Consumer Credit Protection Act (15 USC 1673(b)). The amounts withheld for child support cannot exceed 50% of the disposable net income when there is more than one support obligation and up to 65% of the disposable net income if there is only one support obligation. Please refer to the provision outlined in the income withholding order.

What do I have to put on the check to identify it as a support payment?

An employer must identify each withholding payment by the employee's name and social security number, case number, amount withheld, and the date on which support was withheld from the employee's income. The employer must also provide its federal employer identification number to the Office of Friend of the Court.

What happens if I receive more than one withholding order for the same person?

The maximum amount taken out must comply with Section 303(b) of Title III of the Consumer Credit Protection Act (15 USC 1673(b)). The amounts withheld for child support cannot exceed 50% of the disposable net income when there is more than one support obligation and up to 65% of the disposable net income if there is only one support obligation. Please refer to the provision outlined in the income withholding order.

The MISDU will determine the appropriate distribution of the child support payment when a payer has more than one child support obligation in the system.

I have several employees subject to income withholding for support. Must I write a separate check for each one?

The employer may submit one check to the MISDU with an attached list with the payer's names, social security number and case numbers.

How often do I have to send in the amounts I withhold?

Amounts withheld pursuant to an order of income withholding must be paid to the MISDU within three days after the date of withholding.

What if the employee says they do not owe the money and demands that I pay them? What protects me if I am sued for these wages?

Your payment to the MISDU in accordance with an order of income withholding discharges your liability to the employee as to that portion of the employee's income.

What if I ignore the order and pay it to the employee?

An employer is liable for any amount that it knowingly and intentionally not withheld from the employee's income following service on the employer of an order of income withholding, except as the payment amount is limited by the Consumer Credit Protection Act.

This means the court will require you to pay the amount you should have withheld, even if you have paid it to the employee.

What do I do if this person quits, is fired, or otherwise stops working for our company?

After you have been served with an order of income withholding, you must notify the Friend of the Court if the employee's income from your company is terminated or interrupted for a period of 14 or more consecutive days. In such cases, you must provide the employee's last known address and the name and address of the employee's new employer (if known).

As an employer, do I have an obligation to provide any other information to the Friend of the Court?

Yes, upon the Friend of the Court's request, you are required to provide:

- full name and address of parent
- social security number
- date of birth
- amount of wages earned by or other income due to the parent
- employment status
- information concerning dependent health care coverage if it is available as a benefit of employment

What happens if I refuse to hire, or if I take disciplinary action against an employee because of income withholding?

An employer who refuses to employ, discharges, disciplines or penalizes an employee because of an order of income withholding entered against that employee is guilty of a misdemeanor. The misdemeanor is punishable by a fine of up to \$500 and the employer will be required to make full restitution to the aggrieved employee including reinstatement and payment of back pay.