Section 1: Income Withholding

Q. Why do I need to withhold child support from an employee's paycheck?

A. In New Mexico, all child support orders are required to be issued with a provision for income withholding. New Mexico employers are required by law (Section 40-4A-4.1 NMSA 1978 and Section 40-4A-8 NMSA 1978) to withhold income for child support. Income withholding is the most effective way to pay and collect child support; it is not a punitive measure against the employee.

Q. When do I begin to withhold income?

A. Upon receipt of an "Order/Notice to Withhold Income for Child Support", you must begin deducting the amount designated no later than the next payment of income that is payable to the employee. You must forward the deducted amount within 7 working days of the date the employee is paid.

Q. I filled out a "Verification of Employment" form. Do I automatically start withholding income?

A. No. There may be a lapse of time until you receive an "Order/Notice to Withhold Income". The Verification of Employment form is used for many purposes, such as to determine location and income. Until you receive the actual "Order/Notice to Withhold Income" you cannot start to withhold income.

Q. What is the maximum amount that can be withheld?

A. New Mexico allows for a maximum withholding of support at 50% of the employee's disposable weekly earnings. Disposable means the net income left after making mandatory deductions such as State, Federal or local taxes, Social Security taxes, and Medicare taxes.

Q. What should I do if there is an existing Internal Revenue Service garnishment on an employee and I receive an order to withhold income for child support?

A. A levy from the Internal Revenue Service (IRS) takes priority over child support income withholding if the IRS tax lien was served before the child support income withholding. However, if the income withholding for child support was served prior to the IRS lien, the pre-existing child support income withholding has priority.

Q. What do I need to provide with the payment?

A. Each payment must be identified so that it may be credited to the appropriate account. You should include:

Employee's name

Social Security Number

CSED Case ID (NOT court id or docket number)

Amount withheld

If the child support case is with the New Mexico Child Support Enforcement Division (NM CSED), you should receive an 'Employer Statement' at your place of business. The form, CSED Form 737 (form # found on the bottom of page), will list the name(s) of your employees who have cases with NM CSED. ONLY if you have received an "Order/Notice to Withhold Income" for your employee should you withhold child support from the employee's payroll. You should return Form 737 with the appropriate information in the boxes provided. If you pay more than once a month, you will need to duplicate the form to be able to send it with each payday's withholdings. If the employee has since left employment, you should list that date in the appropriate column. If the person named never worked for you, please mention that in the column for termination.

Q. What do I do with CSED Form 737?

A. NM CSED Form 737 is an 'Employer Remittance Statement' sent out once a month to inform employers of the employees that we show working for the employer. It also serves as a 'backup' document for the employer to send with the child support check. Especially if the employer is sending in payments for more than one employee, the employer could write one check for the total amount, and complete Form 737 with the appropriate information for each employee. If payroll happens more than once a month, the employer should duplicate Form 737 to use each time payments are sent in. Use of Form 737 helps eliminate errors in identifying payments to the correct cases.

Q. Where do I send the withheld amounts?

A. Withheld amounts should be made payable and sent to the agency or individual indicated on the income withholding form. Payments for New Mexico Child Support Enforcement cases should be made payable to:

Child Support Enforcement Division

P.O. Box 25109

Albuquerque, NM 87125

Q. Can I combine withheld amounts from different employees into one check?

A. You may combine all withheld amounts which are payable to the NM Child Support Enforcement Division into a single payment as long as each employee's portion is separately designated on the CSED form 737, as described above.

Q. How do I withhold for two or more orders against the same employee?

A. If the employee has a child support income withholding order and another income withholding order unrelated to child support, the income withholding order to enforce child support has priority regardless of which withholding was served first.

If the two or more orders are for child support, then the employer will allocate support among the cases, but in no situation will the allocation result in a withholding for one of the support orders not being implemented.

Q. When should I stop withholding?

A. The child support income withholding order remains active until you are notified by the agency (such as NM CSED) that the order is no longer in effect.

If an employee is fired or quits, you must notify the agency to whom the withheld income is payable. If the money is payable to NM CSED, you must notify the NM CSED office which served the notice of the withholding. You should provide that agency with the employee's last known address and the name and address of the employee's new employer, if known. (In order to inform NM CSED of this, you may use the second page of the 'Order/Notice to Withhold Income'. Please make sure that the employee's name and Case I.D. are also listed.)

Q. When should I reinstate the child support income withholding order?

A. If an employee leaves (laid off, etc.) and comes back to work for you, you should reinstate the child support income withholding order immediately and without notice.

Q. Should I honor a child support income withholding order issued by a court in another state?

A. Yes. New Mexico has adopted the Uniform Interstate Family Support Act (UIFSA). This requires employers to honor a child support income withholding order issued by a court or tribunal in another state.

Q. May I discharge or discipline an employee who is subject to a child support income withholding order?

A. No. Terminating an employee because of a child support order is illegal. (Section 40-4 A-8 NMSA 1978 and Section 40-4A-11 NMSA 1978)

Q. May I refuse to hire an employee who is subject to a child support income withholding order?

A. No. Refusing to hire an employee who is subject to a child support income withholding order is illegal. (Section 40-4 A-8 NMSA 1978 and Section 40-4A-11 NMSA 1978)

Q. What are the penalties for failure to comply with child support income withholding?

A. According to New Mexico law (Section 40-4A-11 NMSA 1978), the employer may be liable for the full amount of support not withheld from the employee's pay. You may also be subject to a finding of contempt of court for failure to honor a child support income withholding order. The court determines the exact penalties.

Q. Should I withhold child support from a sales commission or bonus?

A. Yes. State law defines earnings that are subject to a child support income withholding order as any money due an employee for personal services, whether designated as wages, salary, commission, bonus or otherwise.

Q. What should I do if my employee tells me the amount being withheld is wrong?

A. The employee must contact the agency or the private attorney that served the withholding order. **If the order is from another state, the employee needs to contact the agency in the designated state.**

Q. Whom should I contact if the employee says the arrearage is paid off?

A. If the child support income withholding order is associated with a New Mexico CSED case, tell the employee to contact the CSED Customer Service Information Center (1-800-288-7207 for in state calls or 1-800-585-7631 for out of state calls). If the arrearage has been paid off, CSED will send you a modified notice with the appropriate amount to be withheld, if any. If the child support income withholding order is not associated with a New Mexico CSED case, contact as appropriate:

- the agency that issued the income withholding
- the private attorney that issued the income withholding

Section 2: EFTor Auto-Withdrawal

Q. How do I send child support payments electronically?

A. An employer may send withheld child support payments electronically either through the employer's financial institution through a CCD+ or CTX EDI transaction or by signing up for the automatic withdrawal from the employer bank account.

Q. How do I arrange to send payments in a CCD+ or CTX EDI transaction?

A. The CCD+ and CTX EDI are transaction standards determined by NACHA (National Automated Clearing House Association) for electronic funds transfer for child support. These transactions allow for identifying information to be sent to child support agencies with the amount of support being sent. Your payroll software or payroll vendor may be able to set up these transactions or you may be able to set these up with your financial institution. Employers are especially encouraged to contact the NM SDU EFT Unit, Adam Medina at 505-476-3917 (in Santa Fe) (Adam.Medina@state.nm.us) before sending these transactions. The EFT Unit works with employers to be sure they have the correct case ids associated with the Non-custodial parent employees so that electronic payments will be correctly identified when they are received. The EFT Unit will also provide the correct routing and account numbers for the EFT file.

Q. How do I sign up for automatic withdrawal from my company's bank account?

A. An employer may sign up for automatic withdrawal by signing up for an account on the NM Child Support employer website https://elink.hsd.state.nm.us/eLink/ and enter information regarding employee(s), amounts to be withheld, and time periods.

Q. How safe is my bank information if I manage automatic withdrawal on the eEmployer Site?

A. Very. Many users are hesitant to put banking information on a web site. The eEmployer site uses industry standard security and 128 bit encryption mechanisms to ensure that the information you provide is secure. Once your information is submitted to the eEmployer web site, it is securely transmitted to our internal financial processing system to execute transactions with your bank.

Section 3: New Mexico New Hire Directory

Q. How do I report my new hires?

A. Federal and State law requires employers to report newly hired and re-hired employees in New Mexico to the New Mexico New Hires Directory. This site will provide you with information about reporting new hires including reporting online and other reporting options. You may do so on the New Hire Directory web site at www.nm-newhire.com