

§ 105-57.009

made pursuant to a family support judgment or order.

(h) The employer will withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from GSA to discontinue wage withholding. The garnishment order will indicate a reasonable period of time within which the employer is required to commence wage withholding, usually the first payday after the employer receives the order. However, if the first payday is within ten (10) days after the receipt of the garnishment order, the employer may begin deductions on the second payday.

(i) Payments received through a wage garnishment order will be applied in the following order:

- (1) To outstanding penalties.
- (2) To administrative costs incurred by GSA to collect the debt.
- (3) To interest accrued on the debt at the rate established by the terms of the obligation under which it arose or by applicable law.
- (4) To outstanding principal.

§ 105-57.009 Exclusions from garnishment.

GSA will not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. The debtor has the burden of informing GSA of the circumstances surrounding an involuntary separation from employment.

§ 105-57.010 Financial hardship.

(a) A debtor whose wages are subject to a wage withholding order under this part, may, at any time, request a review by GSA of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship.

(b) A debtor requesting a review under paragraph (a) of this section shall submit the basis for claiming the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation.

(c) If a financial hardship is found, GSA will downwardly adjust, by an amount and for a period of time agree-

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able to the Agency, the amount garnished to reflect the debtor's financial condition. GSA will notify the employer of any adjustments to the amounts to be withheld.

§ 105-57.011 Ending garnishment.

(a) Once GSA has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs consistent with the FCCS, the Agency will send the debtor's employer notification to discontinue wage withholding.

(b) At least annually, GSA will review its debtors' accounts to ensure that garnishment has been terminated for accounts that have been paid in full.

§ 105-57.012 Actions prohibited by the employer.

An employer may not discharge, refuse to employ, or take disciplinary action against the debtor due to the issuance of a withholding order under this part. *See* 31 U.S.C. 3720D(e).

§ 105-57.013 Refunds.

(a) If a hearing official, at a hearing held pursuant to § 105-57.005 of this part, determines that a debt is not legally due and owing to the United States, GSA will promptly refund any amount collected by means of administrative wage garnishment.

(b) Unless required by Federal law or contract, refunds under this part will not bear interest.

§ 105-57.014 Right of action.

GSA may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with §§ 105-57.006 and 105-57.008 of this part, plus attorney's fees, costs, and if applicable, punitive damages. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this part, "termination of the collection action" occurs when GSA has terminated collection action in accordance with the FCCS or other applicable standards. In