

INSTRUCTIONS TO GARNISHEE
(To Attach Earnings - Chapter 61)
Effective July 1, 2010

Attached to these instructions is the Answer form and a form entitled Written Explanation of Garnishee's Computation of Earnings Withheld (called hereafter "Written Explanation form").

You must complete the attached Answer form within 14 days following the date the initial order of garnishment is served on you. You only need to complete one Answer form for this garnishment.

You should complete the attached Written Explanation form for each payroll period which comes due after the garnishment order is served on you. The garnishment order served upon you is a continuing order and shall remain in effect until the judgment against the judgment debtor has been paid or the garnishment is released, whichever occurs sooner. As long as the garnishment order remains in effect, you must continue to withhold money from the wages of the judgment debtor in accordance with these instructions and the garnishment order. Each time you do payroll for the judgment debtor, complete the attached Written Explanation form for the pay period covered by the payroll, and retain a copy of the form with your normal payroll records. **You do not need to furnish a copy of the Written Explanation form unless you are requested to do so.**

More than one order of garnishment may be served on you against the same judgment debtor. If more than one order is served on you, you need only complete one Written Explanation form for each pay period, and retain the original with your normal payroll records.

The Answer form and Written Explanation form are provided for your convenience in furnishing the required information. They are designed so that you may prepare these forms in conjunction with the preparation of your payroll. If you do not choose to use the attached forms, the forms you use must contain at least the same information contained on the attached forms and your answer must be signed under penalty of perjury. If you are requested to furnish a written explanation of your computation, you must sign your explanation under penalty of perjury.

Here are the instructions to complete the attached forms:

1. Earnings are defined as compensation for personal services, whether called wages, salary, commission, bonus or otherwise.

A. **Answer Form.** Complete the Answer form for all pay periods which end within 14 days following the date the initial order of garnishment is served on you.

B. **Written Explanation Form.** Complete the Written Explanation form for each pay period which ends after the garnishment order is served on you. You should complete the form as you do your normal payroll for the judgment debtor for each pay period.

2. If the order of garnishment states at the top of the order that it is issued for the purpose of enforcing (1) an order of any court of bankruptcy under chapter XIII of the federal bankruptcy act or (2) a debt due for any state or federal tax, you must retain in your possession until further order of the court all of the disposable earnings for all pay periods ending during the month. If this paragraph applies, sign and date the form at the bottom and send a copy to all judgment creditors who have a garnishment in effect on the date you sign the form.

3. If the order of garnishment states at the top of the order that it is issued for the purpose of enforcing an order of any court for child support or spousal support, you must retain in your possession until further order of the court 50% of the disposable earnings for all pay periods ending during the month, or such greater percentage as may be indicated in paragraph A in the table below in paragraph 7. If this paragraph applies, sign and date the form at the bottom and send a copy to all judgment creditors who have a garnishment in effect at the end of the month and to the judgment debtor.

4. If paragraphs 2 or 3 do not apply, continue to paragraph 5.

5. If you are withholding money from the judgment debtor's earnings under an income withholding order, complete paragraph 10 of the form.

6. If you are withholding money from the judgment debtor's earnings under any other lien which has priority over garnishments under the law, complete paragraph 11 of the form.

7. Compute the amount of earnings which may be withheld from the earnings of the judgment debtor (your employee) and complete paragraphs 12, 13 and 14 of the Answer form in accordance with the following table:

DISPOSABLE EARNINGS TABLE

<u>Employee Paid Weekly</u>		<u>Employee paid every two weeks</u>	
Disposable earnings:	Withhold:	Disposable Earnings:	Withhold:
Less than 217.51	\$0.00	Less than 435.01	\$0.00
\$217.51 to 290.00	all over 217.50	\$435.01 to 580.00	all over \$435.00
\$290.01 and over	25% of total disposable earnings	\$580.01 and over	25% of total disposable earnings
<u>Employee paid semimonthly (twice per month)</u>		<u>Employee paid monthly</u>	
Disposable earnings:	Withhold	Disposable earnings:	Withhold
Less than 471.26	\$0.00	Less than 942.51	\$0.00
\$471.26 to 628.33	all over \$471.25	\$942.51 to 1256.67	all over \$942.50
\$628.34 and over	25% of total disposable earnings	\$1256.68 and over	25% of total disposable earnings

NOTE: The numbers used in this paragraph are illustrative only and must be adjusted to comply with K.S.A 60-2310.

A. SUPPORT ORDERS. If the person seeking the garnishment for court ordered support desires to garnish more than 50% of disposable earnings, that person may request in writing to the clerk of the court to check one of the below applicable percentages:

- 55% Employee also supports a spouse or dependent child not covered by this support order and payments are 12 weeks overdue.
- 60% Employee does not support a spouse or dependent child and payments are not 12 weeks overdue.
- 65% Employee does not support a spouse or dependent child and payments are 12 weeks overdue.

Any disposable earnings remaining after payment of the above amounts shall be retained until further order of the court.

B. ADMINISTRATIVE FEE: From income due the employee, you may withhold and retain to defray your costs an administrative fee of \$10 for each pay period for which income is withheld, not to exceed \$20 for each 30-day period for which income is withheld, whichever is less. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the amount you are to withhold pursuant to the instructions above, the fee shall be deducted from the amount withheld.

8. Complete paragraph 15 by listing the case number, name and address for all judgment creditors who have a garnishment in effect against the judgment debtor on the date you complete the attached forms. Compute the amount to be paid to each judgment creditor. For example, if there is only one judgment creditor, pay all to that one; if there are two judgment creditors, pay each one-half (1/2); if there are three judgment creditors, pay each one-third (1/3); etc. This allocation should be followed even if some or all of the garnishments were in effect for less than the entire pay period.

9. Answer Form and Written Explanation Form.

A. Answer Form. Sign and date the Answer form under penalty of perjury on the line provided at the bottom of the form and deliver a copy to all judgment creditors listed in 15 and to the judgment debtor. You may deliver a copy by regular mail, fax transmission, electronic mail, personal delivery, or any other reliable delivery method. If you do not receive an objection to the Answer within 14 days after you have delivered it, promptly pay the earnings withheld as indicated on the Answer to all judgment creditors designated on the Answer in the amount due each creditor as indicated on the Answer, unless you receive prior to such payment an order of the court to the contrary.

B. Written Explanation Form. Complete the form for each pay period for the judgment debtor as you do your normal payroll. Retain the original of the form with your normal payroll records. You do not need to furnish this form to anyone unless requested to do so. If requested to furnish a copy of this form, make a copy from the original to furnish in response to the request. As long as the garnishment order is in effect, continue to pay the earnings withheld as they are withheld, to the judgment creditors indicated on the form, unless you receive prior to such payment an order of the court to the contrary.