

GARNISHMENT AND INVOLUNTARY ALLOTMENT

I. GARNISHMENT OF MILITARY PAY

Federal law authorizes the pay of active, reserve, and retired members of the military and the pay of civilian employees of the Federal government to be garnished (or attached) for the payment of child and/or spousal support, and for payment of lawful debts that have been reduced to judgment. The following is a summary of how garnishment and involuntary allotments work in the military:

DFAS (Defense Finance and Accounting Service) Cleveland processes all court ordered garnishment for child support, alimony and commercial debts for all military members and all civilian employees paid by DFAS, plus court ordered divisions of military retired pay under the Uniformed Services Former Spouses' Protection Act. In order to implement a garnishment or wage attachment against any member of the military or any civilian employee of the Department of Defense (DOD), an income withholding order, or similar process, must be served upon DFAS at the following address:

Defense Finance and Accounting Service
Cleveland DFAS-GAG/CL
PO Box 998002
Cleveland OH 44199-8002
1-888-DFAS411 (888-332-7411)

Garnishment is limited, by law, according to the either:

- 25 percent of his disposable earnings for that week, or
- The amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage in effect at the time the earnings are payable; whichever is less.

In the case of earnings for any pay period other than a week, the Secretary of Labor shall, by regulation, prescribe a multiple of the Federal minimum hourly wage equivalent in effect. However, the restrictions/limits above do not apply in the case of:

- Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.
- Any order of any court of the United States having jurisdiction such over cases.
- Any debt due for any State or Federal tax.

The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

- Where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 percent of such individual's disposable earnings for that week; and
- Where such individual is not supporting such a spouse or dependent child, 60 per cent of such individual's disposable earnings for that week;
- Except that, with respect to the disposable earnings of any individual for any workweek, the 50 percent shall be deemed to be 55 percent and the 60 percent shall be deemed to be 65 percent, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such work week.

The Defense Finance and Accounting Service (DFAS) web site provides comprehensive information on specific procedures concerning garnishment. For further information, study the individual topics listed in the resources gear to the right.

II. INVOLUNTARY ALLOTMENTS

Public Law 103-94, the "Hatch Act Reform Amendments of 1993," (codified at 5 U.S.C. 5520a) gave Congressional authorization for the garnishment of federal civilian employees' pay to satisfy commercial debts. In that same law,

Congress authorized "involuntary allotments" against the pay of active duty and reserve (on active duty for a period more than 180 days pursuant to Title 10) military members to satisfy commercial debts. The portion of the law concerning involuntary allotments against the pay of military members became effective January 1, 1995. The implementing regulation is Indebtedness of Military Personnel, 32 C.F.R. Part 112; 113 (1995). It establishes the administrative procedures for evaluating applications and implementing involuntary allotments. Applications for involuntary allotments cannot be based on garnishments. Because applicants may be unfamiliar with the administrative procedures involved in applying for an involuntary allotment, it is recommended that any creditor wishing to utilize this procedure review a copy of the regulation prior to filing an application.

It is Department of Defense (DoD) policy that military members pay their just financial obligations in a proper and timely manner. Creditors, who have been awarded a civil judgment against a military member, may seek enforcement of the judgment by applying for an involuntary allotment from the member's military pay. If approved, the allotment can pay up to a maximum of twenty-five percent (25%) of the member's disposable pay per monthly pay period. (Note: not all pay that a military member receives is subject to involuntary allotment. A complete listing of pay subject to involuntary allotment and pay excluded from involuntary allotment is contained in the regulation.)

A creditor may initiate this process against a military member by submitting an Involuntary Allotment Application (DD Form 2653) along with a certified copy of a final judgment issued by a civil court. A judge, not the clerk of the court, must sign the final judgment. DFAS must be served with an original and two copies of both the form and the judgment. Also, the application must contain the member's full name and social security number for positive identification. Send the completed package to the following address:

Defense Finance and Accounting Service
Cleveland Center, Code PGL
P.O. Box 998002
Cleveland OH 44199-8002
Toll Free Customer Service: 1-888-DFAS411 (1-888-332-7411).