

F.C.A. § 448, C.P.L.R 5241, 5242(b), Art. 5-B;
S.S.L § 111-g

Form 4-9
(Income Deduction
Order)
12/97

At a term of the Family Court of the
State of New York, held in and for
the County of _____ ,
at _____ , New York,
on _____ ,19 ____ .

P R E S E N T:

Hon.

Judge/Hearing Examiner

.....

In the Matter of a Proceeding for Support
Under Article (4) (5-B)of the Family Court Act

Docket No.

Petitioner,

INCOME DEDUCTION
ORDER

S.S.#

-against-

Respondent.

S.S.#

.....

WHEREAS an order of support dated _____ 19 ____ , was entered by the
Court of _____ County, State of New York, whereby the above-named
(Respondent) (Petitioner) was directed to pay the sum of \$ _____ (bi-
) (weekly)(monthly)(quarterly) for the support of [insert child's name, social security number and date of
birth]

to (Respondent) (Petitioner) (the Support Collection Unit of
County) ; and

WHEREAS said payments have not been made and there is due and owing said creditor the
amount of \$ _____ ; and

Said (Respondent) (Petitioner) now being entitled to receive income as defined in C.P.L.R
5241(a) from _____ , an (income payor) (employer) as defined in C.P.L.R
5241(a) , whose address is _____ ; and good cause
having been shown therefore,

NOW therefore, it is

ORDERED that pursuant to sections 5241 and 5242 of the Civil Practice Law and Rules, said (employer) (income payor) is directed to deduct from all income as defined in CPLR Section 5241(a), due or payable to the (Respondent) (Petitioner) by said (employer) (income payor) the sum of \$ (bi-) (weekly)(semi)(monthly)(quarterly) to be applied to insure compliance with the direction in said order of support, and a further sum of \$ to be applied to the reduction of arrears until the amount of \$ in arrears is paid in full; and to remit the amount so deducted to the (Support Collection Unit at the following address:

) (Respondent) (Petitioner) (

at the following address:

)

within ten days of the date that (Respondent) (Petitioner) is paid.

Attached hereto is a NOTICE TO EMPLOYER OR INCOME PAYOR which is incorporated by reference and enforceable as if contained herein.

ENTER

J.F.C. /H.E.

Dated: , 19 .

IF THIS ORDER WAS ENTERED BY A JUDGE, THE ORDER MAY BE APPEALED PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT. THAT SECTION PROVIDES THAT AN APPEAL FROM THAT ORDER MUST BE TAKEN WITH-IN 30 DAYS AFTER RECEIPT OF THE ORDER BY THE APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF THE COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER WAS ENTERED BY A HEARING EXAMINER, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

- Order mailed on [specify date(s) and to whom mailed]:_____
- Order received in court on [specify date(s) and to whom given]:_____

Order Mailed To:_____
Name of (Employer) (Income Payor)

NOTICE TO EMPLOYER OR INCOME PAYOR

TIMING, AMOUNT AND REMITTING OF DEDUCTIONS: Pursuant to the Civil Practice Laws and Rules 5241, deductions must commence no later than the first pay period that occurs 14 days following the service of the Income Execution upon the employer or income payor, and payment must be sent within 7 business days of the date the debtor is paid. Each payment shall include the identity and social security number of the debtor and the date and amount of each withholding of the debtor's income included in the payment. "Date of withholding" means the date on which the income would otherwise have been paid or made available to the debtor were it not withheld by the employer or income payor.

Deductions from income shall not exceed the following: Where a debtor IS currently supporting a spouse or dependent child other than the creditor, the amount of the deductions to be withheld shall not exceed fifty percent of the earnings of the debtor remaining after the deduction therefrom of any amounts required by law to be withheld ("disposable earnings"), except that if any part of such deduction is to be applied to the reduction of arrears which shall have accrued more than twelve weeks prior to the beginning of the week for which such earnings are payable, the amount of such deduction shall not exceed fifty-five percent of disposable earnings.

Where a debtor IS NOT currently supporting a spouse or dependent child other than the creditor, the amount of the deductions to be withheld shall not exceed sixty percent of the earnings of the debtor remaining after the deductions therefrom of any amounts required by law to be withheld ("disposable earnings"), except that if any part of such deduction is to be applied to the reduction of arrears which shall have accrued more than twelve weeks prior to the beginning of the week for which such earnings are payable, the amount of such deduction shall not exceed sixty-five percent of disposable earnings.

An employer who receives an income execution issued by another state shall apply the income withholding law of the state of the debtor's principal place of employment in determining the above specifications concerning timing, amount and remitting of deductions.

FAILURE TO DEDUCT OR REMIT PAYMENTS: An employer or income payor served with an income execution who fails to deduct the amount specified shall be liable to the creditor, who may commence a proceeding against the employer or income payor for any accrued deductions, together with interest and reasonable attorney's fees. Upon an employer's failure to remit any amounts deducted pursuant to this income execution, either the creditor or the debtor may commence a proceeding against the employer or income payor for accrued deductions with and reasonable attorney's fees.

Additionally, upon a finding by the Family Court that the employer or income payor failed to deduct or remit deductions as specified in the income execution, the court shall issue an order directing compliance, and may direct the employer or income payor to pay a fine of up to \$500.00 for the first such failure and \$1,000.00 for each subsequent failure to deduct or remit.

DISCHARGE, LAYOFF, DISCIPLINING, REFUSAL TO PROMOTE OR REFUSAL TO HIRE BECAUSE OF THE EXISTENCE OF ONE OR MORE INCOME

DEDUCTION ORDERS: Pursuant to Section 5252 of the Civil Practice Laws and Rules, where an employer discharges, lays off, refuses to promote, or disciplines an employee, or refuses to hire a prospective employee, because of the existence of one or more income executions and/or income deduction orders, the court may direct the employer to pay a fine of up to \$500.00 for the first and \$1,000.00 for each subsequent instance of employer or income payor discrimination.

FURTHER: An employer must notify the creditor and issuer promptly when the debtor terminates employment and must provide the debtor's last address and the name and address of the debtor's new employer, if known.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.