

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064

Reason for this Transmittal

- State Law or Regulation Change
 Federal Law or Regulation Change
 Court Order or Settlement Change
 Clarification requested by One or More Counties
 Initiated by DCSS

December 1, 2004

CSS LETTER: 04-27

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: FINANCIAL INSTITUTION DATA MATCH AND BANK LEVY PROGRAM

REFERENCE: REVENUE AND TAXATION CODE 19271.6

The purpose of this letter is to provide information on the Franchise Tax Board's (FTB) Financial Institution Data Match (FIDM) bank levy program for compliant cases, as required by Assembly Bill (AB) 1752, Chapter 225, Statutes of 2003. For obligors not in compliance with their support order, the existing levy procedure is unchanged.

Through the FIDM process, delinquent obligors are matched with accounts in financial institutions for purposes of collecting delinquent support. AB 1752 amended Revenue and Taxation Code 19271.6 to require that all cases with arrearages, including those with functioning wage assignments, now be submitted to FTB to perform the FIDM and bank levy process. These cases should not be withdrawn from FTB until all arrears have been paid in full.

Revenue and Taxation Code 19271.6(i) now requires that all cases be submitted to FTB for the FIDM and bank levy process, except cases in which a jurisdiction other than California is enforcing the support order. DCSS has further identified three unique situations in which cases are not to be submitted to FTB for the FIDM and bank levy process:

- When the obligor has filed bankruptcy.
- When the obligor is receiving Supplemental Security Income/State Supplementary Program benefits.
- When the obligor is deceased.

Criteria

Family Code Section 17500(c) requires LCSAs to transfer to the FTB for collection those child support delinquencies which are more than 60 days past due and the past due support amount exceeds one hundred dollars. All cases that are less than 60 days past due and/or are less than one hundred dollars in arrears must not be submitted to the FIDM and bank levy process.

Revenue and Taxation Code Section 19271.6(j) requires the LCSAs to notify the FTB when an obligor of past due support is in compliance with his/her obligation. This compliance is demonstrated by one of the following:

- A court has ordered an obligor to make scheduled payments on a child support arrearages obligation and the obligor is in compliance with that order.
- An earnings assignment order or an order/notice to withhold income that includes an amount for past-due support has been served on the obligated parent's employer and earnings are being withheld pursuant to the earnings assignment order or order/notice to withhold income.
- At least 50 percent of the obligated parent's earnings are being withheld for support.

Initiating the Levy

FTB will send a Demand for Payment Notice - Child Support Collection (FTB 2011) on all new referrals to FTB meeting the above criteria. FTB will perform a FIDM search on obligors in compliance with support orders as described above. Upon finding a match, FTB will issue a Child Support Collection Order to Withhold - \$3,500 Exemption (FTB 2035). Upon receipt of the Order to Withhold (OTW), the financial institution will send a copy of the notice of levy to the obligor. This Exempt OTW will contain the reason for the hold on the account, the amount to be withheld and the date by which it is to be remitted to FTB. Additionally, the notice will refer the obligor to the FTB if the levy causes an undue financial hardship and to the LCSA to dispute the amount due or to file a Claim of Exemption. The Exempt OTW acts as the administrative process for serving a notice of levy on the obligor. Please see attached forms FTB 2035 and FTB 2011.

The FIDM process for compliant obligors will begin on December 17, 2004, with approximately 36,000 Demand for Payment Notices being mailed to those obligors who have not previously received one. Beginning approximately January 20, 2005, FTB will send daily batches of Exempt OTWs to financial institutions. Because many new compliant cases have been referred to FTB as a result of this new process, FTB estimates that it will take three to four months to mail all of the Exempt OTWs.

Automatic Exemption

An automatic \$3,500 exemption from the levy is provided to obligors who meet the above conditions without the obligor having to file a Claim of Exemption. The exemption applies to the total of all accounts an obligor may hold in a financial institution (e.g., checking, savings, etc.), not to each individual account. Obligor with accounts in one or more financial institutions qualify for only one \$3,500 exemption in a 12-month period.

Exemption Processes

The following two processes to release funds in excess of \$3,500 are available to the obligor who claims a financial hardship.

FTB Hardship Process:

FTB has established two hotlines to respond to inquiries. The contact numbers are:

For customers: FTB Levy Hotline (866) 820-5408
For LCSA's Only: Liaison line (916) 845-7766

FTB staff may be the first point of contact to resolve issues with the levy. FTB will perform an analysis of the obligor's financial hardship claim based on a review of the obligor's income, expenses, and assets. The FTB process is as follows:

- FTB will issue a Child Support Collections Order to Withhold - \$3,500 Exemption to financial institution to levy an obligor's account.
- The financial institution will send a copy of the notice of levy to the obligor.
- The obligor may contact FTB claiming an undue financial hardship.
- Financial hardship may be granted in full or in part based on the obligor's financial situation and may include an agreement that the obligor make installment payments.
- If the request for relief from the bank levy is granted in full, FTB will direct the financial institution to release the funds. If the request for relief from the bank levy is granted in part, all or a portion of the funds may be released. FTB will direct the financial institution to release or remit the funds accordingly.
- If the request for relief from the bank levy is granted, the assets of the obligor shall not be subject to levy for a period of 12 months. The hardship status may be revoked during the 12-month period should the obligor's financial status improve.
- If the obligor is not satisfied with FTB's decision regarding financial hardship, a Claim of Exemption may be filed with the LCSA. An obligor is not required to use the FTB process prior to filing a Claim of Exemption with the LCSA.
- FTB will provide the obligor with a referral to the LCSA for purposes of filing a Claim of Exemption.

- FTB staff will be available to the LCSAs for the purpose of providing information on FIDM and bank levy cases.

LCSA Claim of Exemption Process:

Pursuant to Revenue and Taxation Code 19271.6(j)(3): “The sole basis for a Claim of Exemption under this subdivision shall be the financial hardship for the obligor and the obligor’s dependents.”

To initiate the Claim of Exemption process, the obligor can contact the LCSA who acts as the levying officer for levies made pursuant to Revenue and Taxation Code 19271.6(j)(5). Obligor must be informed by the LCSA that assistance with the Claim of Exemption form is available through the local Family Law Facilitator Office. The LCSA may also assist obligors with completing and filing the Claim of Exemption with the court.

The LCSA process is as follows:

- The LCSA must, at the obligor’s request, provide a Claim of Exemption form (EJ 160) and Financial Statement (EJ 165).
- The Claim of Exemption is filed with the LCSA.
- The Claim of Exemption shall be accepted by the LCSA only if filed in a timely manner as follows:
 - ❖ The Claim of Exemption shall be considered filed timely if the monies levied have not yet been disbursed.
 - ❖ The Claim of Exemption shall be considered not filed timely if the monies levied have already been disbursed.
 - ❖ The LCSA may wait one business day from the receipt of a Claim of Exemption to notify the obligor if the claim was received timely. The one-day delay allows the LCSA to verify whether or not the monies levied have been disbursed, and to stop a scheduled disbursement if necessary.
- The LCSA is required to notify FTB within two business days after receipt of a timely filed Claim of Exemption.
- FTB will notify the financial institution(s) to place a hold on the account for 45 days or longer, if requested.
- If the LCSA does not oppose the Claim of Exemption, the LCSA must contact FTB to release the hold on the account.
- If the LCSA opposes the Claim of Exemption, the LCSA must file the obligor’s Claim of Exemption along with a Notice of Opposition (EJ 170) and Notice of Hearing on Claim of Exemption (EJ 175) with the court within 10 days of receiving a Claim of Exemption from the obligor.
- The court will make a final determination whether to allow the Claim of Exemption and, if so, in what amount.
- The LCSA will contact FTB within two business days of a court order resolving the claim. If the court grants a Claim of Exemption in full, the hold on the

account is lifted and no monies will be taken from the account or paid to the obligee. If the court grants the Claim of Exemption in part, some monies will be taken.

Appeals:

If the obligor appeals the court's decision, the LCSA must notify the FTB of the appeal. The hold on the obligor's account must be maintained until a final decision is made on the appeal.

Once a court order resolving the claim is issued, the LCSA will contact FTB within two business days and request a modification or release of the exempt order to withhold based on the court's decision. If the appeal of the determination has been waived, the time for the appeal has expired, or the determination is considered final by the court, monies from the account will be seized and paid to the obligee.

The Claim of Exemption and the FTB hardship process are outside the scope of the Complaint Resolution/State Hearing process.

AB 1752 "Pilot" Program

Fifty-one compliant cases were manually levied under AB 1752 before implementation of the new program was delayed in July 2004. The Department treated these cases as a pilot program. Impacted LCSAs and the FTB tracked the cases during August, September and October 2004 to learn how the new program actually worked and how clients responded to it. The results of this small pilot reveal minimal workload impact on the LCSAs. No obligors contacted FTB to claim financial hardship and none submitted a Claim of Exemption. Three accounts were levied with a total of \$8,197.33 seized. Although this initial experience is helpful, we are aware that these results may not be representative of the entire population of compliant obligors impacted by this new process.

If you have any questions or concerns regarding this matter, please contact Lesley Hull, Chief of the Case Management Policy Section, at (916) 464-2018.

Sincerely,

SANDRA O. POOLE
Deputy Director
Child Support Services Division

Attachments



Notice Date:

201100210001

DEMAND FOR PAYMENT NOTICE - CHILD SUPPORT COLLECTIONS

Check this box and indicate new address on reverse.

Account Number:

Billing number:

Balance due:

RETURN THE ABOVE PORTION WITH YOUR PAYMENT:
KEEP THIS PORTION FOR YOUR RECORDS

Your delinquent child support account with the office listed below has been referred to the Franchise Tax Board for collection. The account is past due and legal action is pending.

You must pay the full amount due within 20 days of the date of this notice. If we do not receive your full payment, we will begin taking actions to collect the amount due. These actions may include one or more of the following without further notice:

- Garnishing your wages or other sources of income;
- Attaching your bank account;
- Seizing and selling your real or personal property;
- Filing a lien which will attach to all real property you now own or may later acquire in California.

Partial payment will not stop collection action or the addition of interest; you must pay the full amount due. Since we do not have specific information about your child support case, the amount due listed on this notice may not include all the amount you owe.

If you have questions regarding your case or if you dispute the amount due, please contact the county office listed below. If you are unable to pay the full amount due, please contact our office at the telephone number above.

PAYMENT INSTRUCTIONS

1. Make your check or money order payable to: **CHILD SUPPORT COLLECTIONS**.
2. Write your full name, account number and billing number on your check or money order.
3. Mail your full payment and the top portion of this notice to the address listed at the top of this notice.

Account Number:
Billing number:
Amount due:

VOID
18113

STATE OF CALIFORNIA
FRANCHISE TAX BOARD
CHILD SUPPORT COLLECTIONS
PO BOX 460
RANCHO CORDOVA CA 95741-0460

STATE OF CALIFORNIA
CHILD SUPPORT COLLECTIONS

GENERAL INFORMATION

The Franchise Tax Board's Child Support Collections Program was established by the California Legislature to help local child support agencies collect past-due child support. Section 19271 of the California Revenue and Taxation Code authorizes the Franchise Tax Board to withhold wages, levy bank accounts, and seize real or personal property when collecting past-due child support.

YOUR PAST-DUE CHILD SUPPORT

A local child support agency has referred your account to the Child Support Collections Program even though you may be making child support payments or you may have payments taken directly out of your paycheck. These payments may be for current child support only; the Child Support Collections Program collects past-due child support. In addition to remaining current in your child support payments you have a legal requirement to pay all past-due child support.

Collection action will continue until you pay your account in full, or until the office listed on page 1 instructs us to do otherwise. If immediate full payment of the amount due will create an undue hardship, or if you have already paid the amount due call our office at (866) 820-5408.

Assistance for persons with disabilities: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments please call TTY/TDD (800) 822-6268.

IF YOU DISAGREE WITH THE BALANCE DUE

We do not have specific information about the balance due. IF YOU DO NOT BELIEVE THAT YOU OWE THIS DEBT OR IF YOU DISAGREE WITH THE AMOUNT DUE, YOU MUST CONTACT THE OFFICE LISTED ON PAGE 1. Before calling, please have your county case number and social security number ready.

The Franchise Tax Board has an Advocate who reviews those cases where individuals have been unable to resolve their problems with the Franchise Tax Board through regular channels. To contact the Advocate, write to: Advocate Bureau, PO BOX 157, RANCHO CORDOVA CA 95741-0157, or FAX (916) 845-6614. You can also contact them at our Website: www.ftb.ca.gov.

ESTADO DE CALIFORNIA
COLECCIÓN DE MANUTENCIÓN PARA MENORES

INFORMACIÓN GENERAL

El Programa de Colección de Manutención para Menores del Franchise Tax Board fue establecido por la Legislatura de California para ayudar a las oficinas locales de manutención para menores en la colección de manutención atrasada. La sección diecinueve mil doscientos setenta y uno (19271) del Código de Ingresos e Impuestos de California, autoriza al Franchise Tax Board a retener salarios y embargar cuentas bancarias, bienes o propiedad personal para coleccionar deudas atrasadas de manutención para menores.

SU RETRASO DE MANUTENCIÓN PARA MENORES

Una oficina local de manutención para menores ha referido su cuenta al programa de colección de manutención para menores aun cuando usted esta haciendo pagos o los pagos le van de deducidos directamente de su salario. Estos pagos puede que sean solamente para la manutención mensual; el programa de Colección de manutención para menores colecciona manutención atrasada. Además de tener que mantenerse puntual en sus pagos de manutención, usted tiene una obligación legal de pagar toda la manutención atrasada.

Las acciones de colección continuarán hasta que nosotros recibamos el pago completo de su deuda o hasta que la oficina que aparece en la página tres nos instruya de otra manera. Si el pago inmediato de la cantidad total le va a causar problemas económicos o si usted ya pago la cantidad debida, llame a nuestra oficina al (866) 820-5408

Asistencia para personas discapacitadas: Nosotros estamos en conformidad con el Acta de Americanos Discapacitados. Personas con problemas auditivos pueden llamar al TTY/TDD (800) 822-6268.

SI NO ESTA DE ACUERDO CON EL BALANCE DEBIDO

Nosotros no tenemos información específica acerca del balance debido. SI USTED NO CREE QUE DEBA ESTA DEUDA O SI NO ESTA DE ACUERDO CON LA CANTIDAD DEBIDA, DEBERÁ LLAMAR A LA OFICINA QUE APARECE EN LA PÁGINA TRES. Antes de llamar, por favor tenga listo el número del caso del condado y el número de su seguro social.

El Franchise Tax Board tiene una sección llamada Defensor del Contribuyente. Esta sección revisa aquellos casos de individuos que no han podido resolver sus problemas con el Franchise Tax Board a través de conductos normales. Para comunicarse con el Defensor del Contribuyente, escriba a: Advocate Bureau, PO BOX 157, RANCHO CORDOVA, CA 95741-0157 o mande un FAX al número (916) 845-6614. Usted también puede comunicarse con ellos mandando correspondencia electrónica a: www.ftb.ca.gov.



203500510001

**CHILD SUPPORT COLLECTIONS
ORDER TO WITHHOLD - \$3,500 EXEMPTION**

Check this box and indicate new address on reverse.

Account Number:

Billing Number:

SSN:

Amount Due:

RETAIN FOR YOUR RECORDS.

We are issuing this Order to Withhold to collect a past-due child support debt, pursuant to California Revenue and Taxation Code Sections 18670 and 19271.6 and California Family Code Section 17522.5. **You must withhold the debtor's assets, exceeding \$3,500 in value at the time you receive this order.** Do not withhold more than the amount due shown above.

We are directing this order against any credits or payments belonging to the debtor, such as:

- . Deposits in financial institutions, including Individual Retirement Accounts (IRA) and Simplified Employee Pension Plans (SEPs).
- . Declared dividends, stocks, bonds, mutual funds, etc.
- . Any other personal property in your possession or under your control.

Refer to the "NOTICE" section on page 2 of this order if you have property other than cash, payments, or credits belonging to the debtor.

If you are unsure the type of funds you possess are subject to collection for child support, please contact our office at the telephone number listed above.

To comply with this order, please do the following:

1. Freeze the debtor's assets exceeding the \$3,500 exemption amount up to the amount due shown above for 10 business days.

2. Immediately deliver page 3 of this notice to the debtor.

3. After the 10 business days, withhold the cash assets and make the check payable to:

Child Support Collections
Please include the debtor's full name, account number and billing number as shown above:

Refer to the notice at the bottom of page 2 if you are holding non-cash financial assets.

4. Complete page 2 of this notice. Attach your payment to it and return both items to our office at the address shown at the top of this page.

Note: You must complete page 2 and return it to our office even if you do not withhold assets.

5. Advise any interested parties to present claims to the funds by calling our office at the telephone number shown above.

Thank you for your cooperation.



203500510001

**CHILD SUPPORT COLLECTIONS
ORDER TO WITHHOLD - \$3,500 EXEMPTION**

Check this box and indicate new address on reverse.

Account Number:

Billing Number:

SSN:

Amount Due:

COMPLETE THIS PAGE AND RETURN
TO OUR OFFICE (WITH OR WITHOUT PAYMENT).

Please complete the following:

Payment is attached:

A. Account active.

Payment is NOT attached because: (check one)

B. The account is closed.

C. We cannot locate an account.

D. There are no funds in the account in excess of \$3,500.

E. Other (Please attach explanation).

Debt

Obsolete
118113

NOTICE:

If you are holding non-cash financial assets such as, but not limited to: stocks, bonds, stock options, mutual funds, and Individual Retirement Accounts, you must liquidate the non-cash financial assets in a commercially reasonable manner within 20 days of the date of this order. (California Family Code Section 17522.5)

You must send the proceeds of the liquidation to our office at the address shown above within five days of liquidation.

If you are holding a safe deposit box, seal and hold the box until we contact you with instructions. Contact our office at the telephone number shown above if you need additional assistance.



203500510001

**CHILD SUPPORT COLLECTIONS
ORDER TO WITHHOLD - \$3,500 EXEMPTION**

Check this box and indicate new address on reverse.

Account Number:

Billing Number:

Amount Due:

DEBTOR'S COPY

We are issuing this Order to Withhold to the addressee shown above to collect your past-due child support debt. (California Revenue and Taxation Code Sections 18670 and 19271.6 and California Family Code Section 17522.5)

This order has been served upon a financial institution at which you have assets exceeding \$3,500. This order is directed against credits or payments belonging to you and may include:

- Deposits in financial institutions, including Individual Retirement Accounts (IRA) and Simplified Employee Pension Plans (SEP)
- Declared dividends, stocks, bonds, mutual funds, etc.
- Any other personal property that your financial institution possesses at the time you receive this order.

If your bank account includes any money from Social Security or Supplemental Security Income, please contact us immediately at the telephone number at the top of this page.

We have instructed the addressee to freeze all credits or payments exceeding \$3,500 (up to the amount due) for 10 business days. After the 10 business days, the addressee will remit the funds (including funds from the liquidation of non-cash assets) to our office and we will apply the funds to your past-due account. **Please contact the addressee immediately if you have questions about the liquidation process.**

If the addressee withholds less than the amount due, you must pay the remaining unpaid balance immediately to avoid further collection action.

Public Information Box

Attach your payment to a copy of this notice and mail it to our office at the address shown above. Please make your check or money order payable to: **Child Support Collections.**

This order is directed against any credits or payments belonging to you that exceed \$3,500. This exemption is allowed pursuant to California Revenue and Taxation Code Section 19271.6(j).

If immediate full payment of the amount due will create an undue hardship, or if you have already paid the amount due, contact us immediately at the telephone number shown above so that we may attempt to resolve this matter.

If you have any questions regarding specific account information, please contact the appropriate office at the telephone number listed below. You may also choose to use the court process by filing a claim of exemption, as provided by California Code of Civil Procedure Section 703.520, with the office listed below:

Large empty rectangular box for additional information or signature.

STATE OF CALIFORNIA
FRANCHISE TAX BOARD
CHILD SUPPORT COLLECTIONS
PO BOX 460
RANCHO CORDOVA CA 95741-0460

STATE OF CALIFORNIA
CHILD SUPPORT COLLECTIONS

GENERAL INFORMATION

California established the Child Support Collections Program to help local child support agencies collect past-due child support. California Revenue and Taxation Code Section 19271 and 19271.6 authorize the Franchise Tax Board (charged with administering the program) to withhold wages, levy bank accounts, and seize real or personal property to collect past-due child support.

YOUR PAST-DUE CHILD SUPPORT

A local child support agency has referred your account to the Child Support Collections Program even though you may be making child support payments or you may have payments taken directly out of your paycheck. Those payments may be for current or other child support. This action is for past-due child support that you are obligated to pay. In addition to remaining current in your child support payments, you have a legal requirement to pay all past-due child support.

Collection action will continue until you pay your account in full, or until the office listed on page 3 instructs us to do otherwise.

ASSISTANCE FOR PERSONS WITH DISABILITIES: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments please call TTY/TDD (800) 822-6268.

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ASISTENCIA PARA PERSONAS DISCAPACITADAS: Nosotros estamos en conformidad con el Acta de Americanos Discapacitados. Personas con problemas auditivos pueden llamar al TTY/TDD (800) 822-6268.

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