Chapter DWD 136

WAGES EXEMPT FROM LEVY

DWD 136.001 Definitions. **(1)** Unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

(2) In this chapter:

(a) "Disposable earnings" means that part of the earnings of any individual after the deduction from those earnings of any amounts required by law to be withheld; any life, health, dental or similar type of insurance premiums; union dues; any amount necessary to comply with a court order to contribute to the support of minor children; and any levy, wage assignment or garnishment executed prior to a levy issued under s. 108.225, Stats.

(b) "Federal minimum hourly wage" means that wage prescribed by 29 USC 206 (a) (1) in effect at the time an exemption is calculated.

(c) "Federal poverty guidelines" means the poverty guidelines updated periodically in the Federal Register by the U.S. department of health and human services under the authority of 42 USC 9902 (2) and in effect at the time an exemption is calculated.

(d) "Gross earnings" includes, but is not limited to, wages, tips, salary, commissions, bonuses, value of room and board, and periodic payments such as longevity pay or proceeds from a pension or retirement plan.

(e) "Household" means all people who reside together and share income and expenses, but does not include all members of cooperative housing, group homes, or similar group housing or care arrangements.

(f) "Levy" means a procedure through which earnings of an individual are required to be withheld for payment of a debt, except a court order to contribute to the support of minor children.

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DWD 136.01 Purpose. The purpose of this chapter is to prescribe a methodology for computing wages exempt from department levy under ss. 108.225 (16) (a) and (am), Stats., and as required by 15 USC 1673.

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DWD 136.02 Levy to recover forfeitures. In the case of an individual responsible for forfeitures imposed on an employing unit under s. 108.04 (11) (c), Stats., the individual is entitled to an exemption from department levy of 75% of the individual's disposable earnings pursuant to s. 108.225 (16) (a), Stats. For purposes of computing the amount of the exemption, the department shall provide the third party employer with a worksheet to assist in computing the amount of the exemption that is based on earnings per pay period and provides as follows:

(1) The department may levy 25% of the individual's disposable earnings unless any of the following apply:

(a) The total aggregate of all levies against an individual for the pay period will exceed 25% of the total of the individual's disposable earnings plus prior levies for the pay period.

(b) The total aggregate of all levies against an individual for the pay period will exceed the amount by which the individual's weekly disposable earnings exceed 30 times the federal minimum hourly wage. If the pay period is other than weekly, the department levy shall be calculated using the amount exempt for pay periods other than weekly under s. DWD 136.04.

(2) If the department may not levy 25% of the individual's disposable earnings under sub. (1), the department may levy the lesser of the following:

(a) The difference between 25% of the total of the individual's disposable earnings plus prior levies for the pay period, and the amount of prior levies in effect for the pay period.

(b) The difference between the individual's weekly disposable earnings and 30 times the federal minimum hourly wage. If the pay period is other than weekly, the department levy shall be calculated using the amount exempt for pay periods other than weekly under s. DWD 136.04.

Note: Form UCT–8306–2–E is used to calculate the exemption. This form is available from the Unemployment Insurance Division, Department of Workforce Development, 201 East Washington Avenue, P.O. Box 7942, Madison, Wisconsin 53708–7942.

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DWD 136.03 Levy to recover benefit overpayments. **(1)** Except as provided in sub. (2), in the case of benefit overpayments, an individual is entitled to an exemption from department levy of 80% of the individual's disposable earnings pursuant to s. 108.225 (16) (am) 1., Stats. For purposes of computing the amount of the exemption, the department shall provide the third party employer with a schedule of the federal poverty guidelines and a worksheet to assist the third party in computing the amount of the exemption that is based on earnings per pay period and that provides as follows:

(a) If the individual's gross earnings for the pay period are below the federal poverty guidelines based on the individual's household size, the individual's wages are totally exempt from department levy. If the individual's gross earnings are not below the federal poverty guidelines based on the individual's household size, the individual's disposable earnings shall be computed and the individual is entitled to an exemption from department levy of 80% of the individual's disposable earnings.

(b) The department may levy 20% of the individual's disposable earnings unless any of the following apply:

1. The individual's gross earnings for the pay period minus the 20% department levy amount equal an amount less than the federal poverty guidelines for the individual's household size.

2. The total aggregate of all levies against the individual for the pay period will exceed 25% of the total of the individual's disposable earnings plus prior levies for the pay period.

3. The total aggregate of all levies against an individual for the pay period will exceed the amount by which the individual's weekly disposable earnings exceed 30 times the federal minimum hourly wage. If the pay period is other than weekly, the department levy shall be calculated using the amount exempt for pay periods other than weekly under s. DWD 136.04.

(c) If the department may not levy 20% of the individual's disposable earnings under par. (b), the department may levy the lesser of the following:

1. The difference between the individual's gross earnings for the pay period and the federal poverty guidelines for the individual's household size.

2. The difference between 25% of the total of the individual's disposable earnings plus prior levies for the pay period, and the amount of prior levies in effect for the pay period.

3. The difference between the individual's weekly disposable earnings and 30 times the federal minimum hourly wage. If the pay period is other than weekly, the department levy shall be calculated using the amount exempt for pay periods other than weekly under s. DWD 136.04.

Note: Form UCT–8306–3–E is used to calculate the exemption. This form is available from the Unemployment Insurance Division, Department of Workforce Development, 201 East Washington Avenue, P.O. Box 7942, Madison, Wisconsin 53708–7942.

(2) If a final determination has been issued under s. 108.09, Stats., or a judgment has been entered under s. 108.24 (1), Stats., in which the individual has been found guilty of making a false statement or representation to obtain benefits, the department shall calculate the exemption from levy as provided in sub. (1).

(3) The department shall use the federal poverty guidelines schedule for earnings exempt from garnishment adopted by the judicial conference annually under s. 812.34 (3), Stats., covering earnings commencing each July 1 to the following June 30. If the schedule under s. 812.34, Stats., is unavailable, the department shall prepare a comparable schedule using the federal poverty guidelines as published in the Federal Register.

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DWD 136.04 Pay periods other than weekly. In the case of earnings for a period paid other than weekly, the amount exempt from levy shall be computed so that it is equivalent to 30 times the federal minimum hourly wage for a week by using one of the following:

(1) An amount equal to 60 times the federal minimum hourly wage for a two–week pay period.

(2) An amount equal to 65 times the federal minimum hourly wage for a semi–monthly pay period.

(3) An amount equal to 130 times the federal minimum hourly wage for a monthly pay period.

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