A frequent bone of contention for employees/debtors has to do with the implementation of out-of-state garnishments. The employee often threatens to sue the employer claiming that an out-of-state garnishment is not valid and/or that the exemption rules of the state where the employee works prohibit creditor wage garnishments. These arguments most often arise from employees working in Texas, North Carolina, South Carolina, and Pennsylvania. However, no matter where an employee works or resides, these arguments are flat wrong. In fact, if not exceedingly careful, an employer may end up liable for the debtor’s (even when this person is not even an employee) full unpaid debt for mishandling such a garnishment.

So what is the rule? The rule is that if the court issuing the wage garnishment has personal jurisdiction over the employer, then it is a valid order and the procedures and exemption rules from the order-issuing state apply. Seems simple enough, but not so fast.

The Backstory

First, a wage garnishment is a post-judgment collection order directed to an employer (known in this context as “the garnishee”) that intercepts funds the garnishee owes to the debtor. Second, a garnishing court need not reestablish jurisdiction over the debtor (since, technically speaking, the debtor/employee is not a party to the garnishment action and, according to the Supreme Court of the United States, due process considerations were fully satisfied when the judgment was obtained). Third, when a state has personal jurisdiction over the garnishee, the garnishment is valid and enforceable against the funds or wages owed. A state will assert jurisdiction over a garnishee when there was proper service and the garnishee has minimal contact with that state. Minimal contact will likely be established if the garnishee conducts business in that state, owns property, maintains bank accounts, pays taxes, employs individuals, or is registered to conduct business in that state.

Exceptions and Special Rules

The general rule is complicated by a few state laws that limit the reach of their own garnishments and one state (South Carolina) that attempts to prevent implementation of out-of-state garnishments. Therefore, companies operating in multiple states should be wary. Ignoring or refusing to implement a creditor garnishment order simply because it is from another state or because the employee works in a state that does not issue creditor garnishments may very well result in the company’s becoming liable for the entire judgment debt.
Other types of garnishments, however, have different rules. Income withholding orders, federal debt collection garnishments (including student loans), state tax/debt collection, and federal tax levies are treated differently from wage garnishments and have their own rules. For federal debt collection garnishments, federal law applies across all states. For child support collection, federal laws apply across all states. A nationally adopted uniform child support law exist whereby each state recognizes each other state's orders for child support. On the other hand, the reach of administratively issued state tax levies or other state debt collection orders are likely to be limited to situations where both the debtor/employee and the employer are present in the issuing state.

**Key Takeaways**

Jurisdictional decisions and the laws for each state are complicated and beyond the scope of a blog post. However, a company's payroll team must promptly and accurately classify the different types of garnishments and make jurisdictional decisions for the company dozens of times a day. It is a wise investment for companies to keep their payroll teams trained and experienced so that garnishments are accurately and efficiently processed.

**Martin C. Brook**, a shareholder in the Detroit (Metro) office of Ogletree Deakins, is the author of **OD Comply: Garnishments**, a comprehensive subscription-based product compiling state law garnishment requirements in concise, user-friendly formats with links to state garnishment forms. **OD Comply: Garnishments** is updated and provided to **OD Comply** subscribers as the law changes.

For further information on garnishment issues and best practices, join Martin for "Garnishments and Other Wage Attachments: Answering, Administering and Troubleshooting," a full-day seminar that will take place on April 11, 2017, in Phoenix, Arizona. Register [here](#).