

### Important Notice

If you are issuing a Spousal Support Only Income Withholding Order, you must serve the completed **LDSS-5038** as follows:

- **Part A:** serve only upon the employer/income withholder.
- **Part B:** serve upon all of the following:
  1. employer/income withholder;
  2. employee/obligor; and
  3. obligee.

### Court Information

<input type="checkbox"/> Family Court: _____ County	Order ID (Index/Docket Number)
<input type="checkbox"/> Supreme Court: _____ County	

### Employee/Obligor Information

Name (Last, First, Middle)	
Social Security Number      -      -	Date of Birth (MM/DD/YYYY)      /      /

### Obligee Information

Name (Last, First, Middle)
Mailing Address

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**NOTE**- Grayed out areas of this form are **NOT** applicable to spousal support only cases

**Part  
B**

**INCOME WITHHOLDING FOR SUPPORT**

- ORIGINAL INCOME WITHHOLDING ORDER/NOTICE FOR SUPPORT (IWO)
- AMENDED IWO
- ONE-TIME ORDER/NOTICE FOR LUMP SUM PAYMENT
- TERMINATION OF IWO

Date: \_\_\_\_\_

Child Support Enforcement (CSE) Agency     Court     Attorney     Private Individual/Entity (Check One)

**NOTE:** This IWO must be regular on its face. Under certain circumstances you must reject this IWO and return it to the sender (see IWO instructions [www.acf.hhs.gov/programs/css/resource/income-withholding-for-support-instructions](http://www.acf.hhs.gov/programs/css/resource/income-withholding-for-support-instructions)). If you receive this document from someone other than a state or tribal CSE agency or a court, a copy of the underlying order must be attached.

State/Tribe/Territory \_\_\_\_\_ Remittance ID (include w/payment) \_\_\_\_\_  
 City/County/Dist./Tribe \_\_\_\_\_ Order ID \_\_\_\_\_  
 Private Individual/Entity \_\_\_\_\_ New York Case Identifier \_\_\_\_\_

_____ Employer/Income Withholder's Name	RE: _____ Employee/Obligor's Name (Last, First, Middle)														
_____ Employer/Income Withholder's Address	_____ Employee/Obligor's Social Security Number														
_____ Employer/Income Withholder's FEIN	_____ Custodial Party/Obligee's Name (Last, First, Middle)														
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Child(ren)'s Name(s) (Last, First, Middle)</th> <th style="width: 50%;">Child(ren)'s Birth Date(s)</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table>	Child(ren)'s Name(s) (Last, First, Middle)	Child(ren)'s Birth Date(s)	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	<div style="border: 1px solid black; width: 100%; height: 100%; background-color: #cccccc;"></div>
Child(ren)'s Name(s) (Last, First, Middle)	Child(ren)'s Birth Date(s)														
_____	_____														
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**ORDER INFORMATION:** This document is based on the support or withholding order from New York State. You are required by law to deduct these amounts from the employee/obligor's income until further notice.

\$ _____	Per _____	current child support
\$ _____	Per _____	past-due child support - <b>Arrears greater than 12 weeks?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
\$ _____	Per _____	current cash medical support
\$ _____	Per _____	past-due cash medical support
\$ _____	Per _____	current spousal support
\$ _____	Per _____	past-due spousal support
\$ _____	Per _____	other (must specify) _____

for a **Total Amount to Withhold** of \$ \_\_\_\_\_ per \_\_\_\_\_.

**AMOUNTS TO WITHHOLD:** You do not have to vary your pay cycle to be in compliance with the *Order Information*. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$ \_\_\_\_\_ per weekly pay period                      \$ \_\_\_\_\_ per semimonthly pay period (twice a month)  
 \$ \_\_\_\_\_ per biweekly pay period (every two weeks) \$ \_\_\_\_\_ per monthly pay period  
 \$ \_\_\_\_\_ **Lump Sum Payment:** Do not stop any existing IWO unless you receive a termination order.

Employer's Name: \_\_\_\_\_ Employer FEIN: \_\_\_\_\_  
Employee/Obligor's Name: \_\_\_\_\_ SSN: \_\_\_\_\_  
New York Case Identifier: \_\_\_\_\_ Order ID: \_\_\_\_\_

**REMITTANCE INFORMATION:** If the employee/obligor's principal place of employment is New York State, you must begin withholding no later than the first pay period that occurs 14 days after the date of service of this notice. Send payment within 7 working days of the pay date. If the employee/obligor's principal place of employment is not New York State, obtain withholding limitations, time requirements, and any allowable employer fees at [www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information](http://www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information) for the employee/obligor's principal place of employment.

Include the **Remittance ID, pay date** and **employee/obligor's name** on the payment.

- **Make payments payable in the name of the obligee identified on PART A.**
- **Remit payment to obligee's address identified on PART A.**

Return to Sender [Completed by Employer/Income Withholder]. Payment must be directed to an SDU in accordance with 42 USC §666(b)(5) and (b)(6) or Tribal Payee (see Payments to SDU below). If payment is not directed to an SDU/Tribal Payee or this IWO is not regular on its face, you must check this box and return the IWO to the sender.

Signature of Judge/Issuing Official (if required by state or tribal law): \_\_\_\_\_  
Print Name of Judge/Issuing Official: \_\_\_\_\_  
Title of Judge/Issuing Official: \_\_\_\_\_  
Date of Signature: \_\_\_\_\_

If the employee/obligor works in a state or for a tribe that is different from the state or tribe that issued this order, a copy of this IWO must be provided to the employee/obligor.

If checked, the employer/income withholder must provide a copy of this form to the employee/obligor.

#### ADDITIONAL INFORMATION FOR EMPLOYERS/INCOME WITHHOLDERS

State-specific contact and withholding information can be found on the Federal Employer Services website located at: [www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information](http://www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information).

**Priority:** Withholding for support has priority over any other legal process under state law against the same income (42 USC §666(b)(7)). If a federal tax levy is in effect, please notify the sender.

**Combining Payments:** When remitting payments to an SDU or tribal CSE agency, you may combine withheld amounts from more than one employee/obligor's income in a single payment. You must, however, separately identify each employee/obligor's portion of the payment.

**Payments To SDU:** You must send child support payments payable by income withholding to the appropriate SDU or to a tribal CSE agency. If this IWO instructs you to send a payment to an entity other than an SDU (e.g., payable to the custodial party, court, or attorney), you must check the box above and return this notice to the sender. Exception: if this IWO was sent by a court, attorney, or private individual/entity and the initial order was entered before January 1, 1994 or the order was issued by a tribal CSE agency, you must follow the "Remit payment to" instructions on this form.

**Reporting the Pay Date:** You must report the pay date when sending the payment. The pay date is the date on which the amount was withheld from the employee/obligor's wages. You must comply with the law of the state (or tribal law if applicable) of the employee/obligor's principal place of employment regarding time periods within which you must implement the withholding and forward the support payments.

**Multiple IWOs:** If there is more than one IWO against this employee/obligor and you are unable to fully honor all IWOs due to federal, state, or tribal withholding limits, you must honor all IWOs to the greatest extent possible, giving priority to current support before payment of any past-due support. Follow the state or tribal law/procedure of the employee/obligor's principal place of employment to determine the appropriate allocation method.

Employer's Name: \_\_\_\_\_ Employer FEIN: \_\_\_\_\_  
Employee/Obligor's Name: \_\_\_\_\_ SSN: \_\_\_\_\_  
New York Case Identifier: \_\_\_\_\_ Order ID: \_\_\_\_\_

**Lump Sum Payments:** You may be required to notify a state or tribal CSE agency of upcoming lump sum payments to this employee/obligor such as bonuses, commissions, or severance pay. Contact the sender to determine if you are required to report and/or withhold lump sum payments.

**Liability:** If you have any doubts about the validity of this IWO, contact the sender. If you fail to withhold income from the employee/obligor's income as the IWO directs, you are liable for both the accumulated amount you should have withheld and any penalties set by state or tribal law/procedure, together with interest and reasonable attorney's fees. If you comply with this IWO you will not be subject to civil liability to any individual or agency for conduct in compliance with this IWO.

**Anti-discrimination:** You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against an employee/obligor because of this IWO. In New York State, pursuant to CPLR §5252, the court may direct a civil penalty not to exceed \$500 for the first instance and \$1,000 per instance for the second and subsequent instances of such discrimination.

**Withholding Limits:** You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (CCPA) (15 USC §1673(b)); or 2) the amounts allowed by the state of the employee/obligor's principal place of employment or tribal law if a tribal order (see *Remittance Information*). Disposable income is the net income left after making mandatory deductions such as: state, federal, local taxes; Social Security taxes; statutory pension contributions; and Medicare taxes. The federal limit is 50% of the disposable income if the obligor is supporting another family and 60% of the disposable income if the obligor is not supporting another family. However, those limits increase 5% - to 55% and 65% - if the arrears are greater than 12 weeks. If permitted by the state or tribe, you may deduct a fee for administrative costs. The combined support amount and fee may not exceed the limit indicated in this section.

For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers/income withholders who receive a state IWO, you may not withhold more than the lesser of the limit set by the law of the jurisdiction in which the employer/income withholder is located or the maximum amount permitted under section 303(b) of the CCPA (15 USC 1673(b)).

Depending upon applicable state or tribal law, you may need to consider the amounts paid for health care premiums in determining disposable income and applying appropriate withholding limits.

**Arrears greater than 12 weeks?** If the *Order Information* does not indicate that the arrears are greater than 12 weeks, then the employer should calculate the CCPA limit using the lower percentage.

**Supplemental Information:** (1) **PART A** of this form contains sensitive information and must be served only upon the employer/income withholder for purposes of processing the income withholding; **PART B**, which consists of 3 pages, must be served upon the employer/income withholder, employee/obligor, and obligee. (2) Priority of withholding pursuant to CPLR §5241(h) is current support, followed by health insurance premiums, and then arrears payments. (3) If there are multiple IWOs against this employee/obligor, withhold the maximum amount permitted under the CCPA (see *Withholding Limits, above*) and pay to each creditor the proportion thereof which such creditor's claim bears to the combined total. (4) If the employee/obligor is reinstated or reemployed within 90 days after termination, this IWO is still in effect.

IMPORTANT: The person completing this form is advised that the information may be shared with the employee/obligor.

Employer's Name: \_\_\_\_\_ Employer FEIN: \_\_\_\_\_  
Employee/Obligor's Name: \_\_\_\_\_ SSN: \_\_\_\_\_  
New York Case Identifier: \_\_\_\_\_ Order ID: \_\_\_\_\_

**NOTIFICATION OF EMPLOYMENT TERMINATION OR INCOME STATUS:** If this employee/obligor never worked for you or you are no longer withholding income for this employee/obligor, you must promptly notify the CSE agency and/or sender by returning this form to the address listed in the *Contact Information* below:

- This person has never worked for this employer nor received periodic income.
- This person no longer works for this employer nor receives periodic income.

Please provide the following information for the employee/obligor:

Termination date: \_\_\_\_\_ Last known phone number: \_\_\_\_\_

Last known address: \_\_\_\_\_  
\_\_\_\_\_

Final payment date to Obligee / tribal payee: \_\_\_\_\_ Final payment amount: \_\_\_\_\_

New employer's name: \_\_\_\_\_

New employer's address: \_\_\_\_\_  
\_\_\_\_\_

**CONTACT INFORMATION:**

**To Employer/Income Withholder:** If you have any questions, contact \_\_\_\_\_ (issuer name)  
by phone: \_\_\_\_\_, by fax: \_\_\_\_\_, by e-mail or website: \_\_\_\_\_.

Send termination/income status notice and other correspondence to: \_\_\_\_\_  
\_\_\_\_\_ (issuer address).

**To Employee/Obligor:** If the employee/obligor has questions, contact \_\_\_\_\_ (issuer name)  
by phone: \_\_\_\_\_, by fax: \_\_\_\_\_, by e-mail or website: \_\_\_\_\_.