INCOME WITHHOLDING FOR SUPPORT: GENERAL INFORMATION AND INSTRUCTIONS

When is income withholding required?

When the Court issues an order of support, the Court ***must in every case order immediate income withholding*** unless:

a. it is a **"IV-D case"** where child support services (including income withholding) are being applied for, or provided through, the child support program (commonly referred to as the "IV-D" program since it is authorized by Title IV-D of the federal Social Security Act) by a local district Support Collection Unit;

OR

b. the Court finds and sets forth in writing: (1) the reasons why there is good cause not to require immediate income withholding; or (2) an agreement providing for an alternative arrangement has been reached between the parties. See Domestic Relations Law § 240(2)(b)(2), Family Court Act § 440(1)(b)(2), and CPLR § 5242(c).

Where income withholding is required, the Court shall direct that the support be paid by automatically deducting moneys from the obligor's income through the use of an Income Withholding Order (hereinafter "IWO").

What is a "Non-IV-D Services" case?

A **Non-IV-D Services** case is a case for which a court has determined that income withholding for support is required by law or otherwise appropriate and neither the employee/obligor nor the custodial party/obligee has applied for, or is receiving, child support services through their local Support Collection Unit. A Non-IV-D case can include an order covering child support alone or it may include an order of support for both a child and the custodial parent. Income withholding for a Non-IV-D Services case **must** go through the NYS Child Support Processing Center (SDU).

When will I receive the *New York Case Identifier* for my Non-IV-D Services case?

A ***New York Case Identifier*** will be assigned by the NYS Child Support Processing Center (SDU) to a Non-IV-D Services case upon receipt of both **Part A** and **Part B** of the **LDSS-5037** (Non-IV-D IWO). It is the responsibility of the issuer of the IWO to serve the NYS Child Support Processing Center (SDU) with both Part A and Part B of the **LDSS-5037**. Upon receipt of both Part A and Part B of the **LDSS-5037**, the employer/income withholder, custodial party/obligee, and the employee/obligor will receive notice of the ***New York Case Identifier*** assigned to the Non-IV-D Services case.

What is a "Spousal Support Only" case?

A Spousal Support Only case is a case that has no child support ordered.

How do I complete the IWO?

Follow the field-by-field instructions below to properly complete the **LDSS-5037** (Non-IV-D IWO) and the **LDSS-5038** (Spousal Support Only IWO). Use the instructions with the Numbered Reference Tools found on Pages 8 - 19. The person making the payment is the employee/obligor (or debtor). The person receiving the payment is the custodial party/obligee (or creditor).

Note: If you wish to apply for child support services at this time, or you are already receiving services, DO NOT fill out this IWO; an IWO will be prepared and sent by the Support Collection Unit on your behalf.

Part A:

Field 1: Check the appropriate box to indicate the court that issued the underlying support order to which this IWO relates. Provide the name of the county in which that court is located.

Field 2: Provide the Index number of your Supreme Court divorce action or the Docket number of your Family Court case.

Field 3: Provide the employee's/obligor's name (last, first, middle).

Field 4: Provide the mailing address of the employee/obligor including the street, PO Box, city, state, and zip code.

Note: This field is not applicable to Spousal Support Only IWOs and has been omitted from Part A of the LDSS-5038.

Field 5: Provide the Social Security number or other taxpayer identification number of the employee/obligor.

Field 6: Provide the birth date for the employee/obligor.

Field 7: Provide the custodial party/obligee's name (last, first, middle).

Field 8: Provide the mailing address of the custodial party/obligee including the street, PO Box, city, state, and zip code.

Field 9: Provide the Social Security number or other taxpayer identification number of the custodial party/obligee.

Note: This field is not applicable to Spousal Support Only IWOs and has been omitted from Part A of the LDSS-5038.

Field 10: Provide the birth date for the custodial party/obligee.

Note: This field is not applicable to Spousal Support Only IWOs and has been omitted from Part A of the LDSS-5038.

Part B:

Fields 1a-1d: Check the applicable box, depending on your situation.
Note: If you check box 1d "Termination of IWO" enter $0 in field 12a "Total Amount to Withhold."

Field 1e: Leave this field blank. The Court will fill in the date when the IWO is signed.

Field 1f: Check the appropriate box to indicate who is issuing the IWO. If you are giving this form to a court or clerk of the court for signature, select "Court." If the IWO will be issued by a private attorney select "Attorney." If the IWO will be issued by a sheriff, select "Private Individual/Entity."

Field 1g: Write in "New York."

Field 1h: Provide the Index number of the Supreme Court divorce action or the Docket number of the Family Court case in which the court issued the support order to which this IWO relates.

Field 1i: Provide the name of the county where the divorce action or Family Court support case referenced in Field 1h was filed.

Field 1j: Provide the Index number of your Supreme Court divorce action or the Docket Number of the Family Court case in which the court issued the support order to which this IWO relates.

Field 1k: If "Private Individual/Entity" was selected for Field 1f (above), provide the name of the sheriff issuing the IWO.

Field 1l: If this is an Original IWO or One-Time (Lump Sum) IWO establishing the income withholding for support, leave this field blank. Once a copy of the completed IWO is received by the NYS Child Support Processing Center (SDU), a New York Case Identifier will be assigned for proper identification of remittances. For all other actions regarding the IWO (i.e. amending or terminating) provide the New York Case Identifier previously assigned.

Note: This field is not applicable to a Spousal Support Only IWO.

Field 2a: Provide the name of the employer/income withholder to whom the IWO will be sent and who will be directed to withhold income.

Field 2b: Provide the mailing address of the employer/income withholder including the street, PO Box, city, state, and zip code. (This may differ from the employee/obligor's worksite.) If the employer/income withholder is a federal government agency, provide the address listed under Federal Agency Income Withholding Contacts - Addresses for Income Withholding at www.acf.hhs.gov/programs/css/resource/federal-agency-income-withholding-contact-information.

Field 2c: Provide the employer/income withholder's nine (9) digit Federal Employer Identification Number (FEIN) if available.

Field 3a: Provide the employee's/obligor's name (last, first, middle).

Field 3b: Provide the Social Security number or other taxpayer identification number of the employee/obligor.

Field 3c: Provide the name (last, first, middle) of the custodial party/obligee.

Field 3d: Provide the child(ren)'s name(s) (last, first, middle). Note if there are more than six children, you may attach an additional page. (Or you may utilize the blank space above the lines provided for the first 6 children.)
Note: This field is not applicable to a Spousal Support Only IWO.

Field 3e: Provide the birth date for each child named.
Note: This field is not applicable to a Spousal Support Only IWO.

Field 3f: If the underlying support obligation to which this IWO relates was determined in a divorce action in Supreme Court, write in the box: "Supreme Court of _____County." Then fill in the county where the divorce action was filed. If the underlying support obligation to which this IWO relates is a Family Court order of support, write in the box: "Family Court of _____ County." Then fill in the county where the petition was filed.

Field 4: This field has been pre-filled to make completion of the IWO easier for you.
Go to Field 5a.

Fields 5a-11c: Fill in the dollar amounts to be withheld for the specific time period as specified in the applicable order of support. Copy this information from the applicable order of support. For Field 6c, check the appropriate box to indicate whether arrears have accrued for more than 12 weeks.
Note: Fields 5a, 5b, 6a, 6b, 7a, 7b, 8a and 8b are not applicable for Spousal Support Only orders.

Field 12a: Enter the total of the amounts in Fields 5a-11a on Line 12a. This is the total amount to withhold for the corresponding time period.
Note: For termination of an IWO, enter $0 in this field.

Field 12b: Enter the time period (e.g. week, month) specified in the underlying order for the obligations contained in fields 5a - 11a.

Fields 13a-13d: If you are certain of the employer's/income withholder's pay cycle, enter the value of the obligation in the appropriate field. **Only one field need be filled in.**

If you are not certain of the employer's/income withholder's pay cycle, you must enter a value in **each of these fields.** To do this, follow these instructions:

- First calculate the amount of the obligation on a yearly basis (i.e., if the amount of the obligation is weekly, multiply it by 52; if biweekly, multiply it by 26; if semimonthly multiply it by 24; or if monthly, multiply it by 12); then take the yearly amount and divide it by the appropriate pay cycle (i.e., if weekly, by 52; if biweekly, by 26; if semimonthly, by 24; and if monthly, by 12). Then enter the recalculated amount in the proper field.
  - **Example 1:** Assume the support obligation is $100.00 biweekly. You know that the employer's/income withholder's pay cycle is monthly. Then you should multiply $100.00 by 26 to get the yearly obligation ($2,600.00). Then divide that by 12 to get the monthly obligation ($216.67). You would then enter that value in field 13d.
  - **Example 2:** Maybe you're not sure of the employer's/income withholder's pay cycle. Then you should again multiply $100.00 by 26 to get the yearly obligation ($2,600.00). Then divide $2,600.00 by 52 to get the value for the weekly value ($50.00); divide $ 2,600.00 by 26 to get the biweekly value ($100.00.); divide $2,600.00 by 24 to get the semimonthly value ($108.33);

and divide $2,600.00 by 12 to get the monthly value ($216.67). You should enter these values in fields 13a - 13d.

Field 13a: If the employer's/income withholder's pay cycle does not correspond with Field 12b, enter the total amount the employer/income withholder should withhold if the employee/obligor is paid weekly.

Field 13b: If the employer's/income withholder's pay cycle does not correspond with Field 12b, enter the total amount the employer should withhold if the employee is paid twice a month.

Field 13c: If the employer's/income withholder's pay cycle does not correspond with Field 12b, enter the total amount the employer should withhold if the employee is paid every two weeks.

Field 13d: If the employer's/income withholder's pay cycle does not correspond with Field 12b, enter the total amount the employer should withhold if the employee is paid once a month.

Field 14: Complete if 1c (above) has been selected.

Fields 15-20: These fields have been pre-filled to make completion of the IWO easier for you.
Go to Field 21.

Field 21: If you are submitting the IWO to a Court or Clerk of Court for issuance, leave this field blank. If the IWO is issued by a private attorney or sheriff, the issuer may use this space to note its own tracking identifier. This is optional.

Fields 22-24: These fields have been pre-filled to make completion of the IWO easier for you.
Go to Field 25.

Field 25: Do not check this box. It is for employer/income withholder use only, if applicable.

Fields 26-29: If you are giving the IWO to a Court or Clerk of Court for issuance, leave these spaces blank. The Court will fill in this information when the IWO is signed by the Judge or Clerk of Court. If the IWO is issued by a private attorney or sheriff, these fields should be completed by the issuer.

Field 30: If the employee works in a state different from New York, check this box.

Fields 31-33: These fields have been pre-filled to make completion of the IWO easier for you.
Note: The information included in Field 33 for service of Part A and Part B of the IWO will vary depending upon the type of IWO served, i.e. whether it is a Non-IV-D IWO processed through the NYS Child Support Processing Center (SDU) or whether it is a Spousal Support Only IWO which is remitted/payable to the obligee.
Go to Field 34a.

Fields 34a-41: Leave this section blank. It is for the employer/income withholder's use only if applicable.

Fields 42-50: If you are submitting the IWO to a Court or Clerk of Court for issuance, leave this field blank; it will filled in by the Court. If the IWO is issued by a private attorney or sheriff, the issuer must fill in these blanks.

Top of 2nd – 4th Pages, Part B: Copy the information from Fields 2a, 2c, 3a, 3b, and 1j into the corresponding fields at the top of the 2nd, 3rd, and 4th pages of Part B (pages 11-13 and 17-19). Leave the New York Case Identifier field blank as instructed for Field 1l.

Where do I serve the IWO?

For a Non-IV-D Services case, serve the completed LDSS-5037 as follows:

- **Part A:** serve **only** upon the NYS Child Support Processing Center (SDU), PO Box 15363, Albany, NY 12212-5363.

- **Part B:** serve upon **all** of the following:
  1. employer/income withholder;
  2. employee/obligor;
  3. custodial party/obligee; and
  4. NYS Child Support Processing Center (SDU)
     PO Box 15363, Albany, NY 12212-5363.

For a Spousal Support Only case, 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.

What method of service do I use to send the IWO?

You may use regular mail but it is suggested that you file an Affidavit of Service of the IWO with the Clerk of the Court.

Do I need to send a copy of the underlying order of support with the IWO?

The Federal Office of Child Support Enforcement states that if the IWO is issued by a Court, a copy of the underlying support order need not be attached to the IWO even in instances where the IWO is served by a litigant or his/her representative acting on the Court's instructions. See Field 1(f), Fields 26-29, and Fields 42-50 on the IWO for information about the Issuer.

If you have continuing questions about this instruction, you may contact the **Child Support Helpline** toll free at **888-208-4485 (TTY: 866-875-9975)**, Monday through Friday from 8:00 AM to 7:00 PM. (For **Video Relay Service** visit **www.fcc.gov/encyclopedia/trs-providers**).

How do I remit (send) payments for a Non-IV-D Services case?

- You **must** include the following information with the payment:
  - Remittance ID (once assigned, the ***New York Case Identifier*** will replace this);
  - Pay date; and
  - A notation of "Non-IV-D Services."
- Make the payment payable to the **NYS Child Support Processing Center (SDU)**
- Mail the payment to:
  NYS Child Support Processing Center (SDU)
  PO Box 15363
  Albany NY 12212-5363.

How do I remit (send) payments for a Spousal Support Only case?

- You must follow the instructions contained in the IWO. If the **LDSS-5038** was used by the issuer, you must include the following information with the payment:
  - Remittance ID;
  - Pay date; and
  - Employee/Obligor's name.
- Make the payment payable to the **Obligee**.
- Mail the payment to the **Obligee** at the address provided on Part A of the **LDSS-5038**.

How do I terminate an IWO?

When terminating an IWO, basic information must be provided to enable proper identification by the employer/income payor of the subject IWO. At a minimum, the following information must be provided on Part B of the IWO to terminate a previously issued Original, Amended, or One-Time (Lump Sum) IWO:

Field 1d – IWO Category (check the box marked "Termination of IWO")
Field 1e – Date
Field 1f – Issuer Category
Field 1h – Remittance ID
Field 1l – New York Case Identifier (applicable to a Non-IV-D Case only)
Field 2a – Employer/Income Withholder's Name
Field 2b – Employer/Income Withholder's Address
Field 3a – Employee/Obligor's Name
Field 3b – Employee/Obligor's Social Security Number
Field 3c – Custodial Party/Obligee's Name
Field 12a – Total Amount to Withhold (enter $0.00)
Fields 26-29 – Judge/Issuing Official Identification box
Fields 42-45 – Issuer Contact Information

Part A of the LDSS-5037 or LDSS-5038 need not be completed when terminating an IWO. Note that a Termination of IWO must be served upon the employer/income withholder, employee/obligor, custodial party/obligee, and for a Non-IV-D Services case, also mailed to the NYS Child Support Processing Center (SDU).

LDSS-5037 (5/15)

NUMBERED REFERENCE TOOL

Part A

Important Notice

If you are issuing a Non-IV-D Income Withholding Order for child support or combined child and spousal support, you must serve the completed **LDSS-5037** as follows:

- **Part A:** serve **only** upon the NYS Child Support Processing Center (SDU), PO Box 15363, Albany, NY 12212-5363.
- **Part B:** serve upon **all** of the following:
  1. employer/income withholder;
  2. employee/obligor;
  3. custodial party/obligee; and
  4. NYS Child Support Processing Center (SDU) PO Box 15363, Albany, NY 12212-5363.

Court Information

1	2
□ Family Court: _____ County □ Supreme Court: _____ County	Order ID (Index/Docket Number)

Employee/Obligor Information

3 Name (Last, First, Middle)	
4 Mailing Address	
5 Social Security Number - -	6 Date of Birth (MM/DD/YYYY) / /

Custodial Party/Obligee Information

7 Name (Last, First, Middle)	
8 Mailing Address	
9 Social Security Number - -	10 Date of Birth (MM/DD/YYYY) / /

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LDSS-5037 (5/15)

NUMBERED REFERENCE TOOL

INCOME WITHHOLDING FOR SUPPORT

Part B

1a ☐ ORIGINAL INCOME WITHHOLDING ORDER/NOTICE FOR SUPPORT (IWO)
1b ☐ AMENDED IWO
1c ☐ ONE-TIME ORDER/NOTICE FOR LUMP SUM PAYMENT
1d ☐ TERMINATION OF IWO

Date: _____1e_____

1f ☐ 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**). 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 _____1g_____ Remittance ID (include w/payment)_____1h_____
City/County/Dist./Tribe _____1i_____ Order ID_____1j_____
Private Individual/Entity _____1k_____ New York Case ID_____1l_____

2a _____
Employer/Income Withholder's Name
2b _____
Employer/Income Withholder's Address
_____
_____
Employer/Income Withholder's FEIN_____2c

RE: 3a _____
Employee/Obligor's Name (Last, First, Middle)
3b _____
Employee/Obligor's Social Security Number
3c _____
Custodial Party/Obligee's Name (Last, First, Middle)

Child(ren)'s Name(s) (Last, First, Middle) Child(ren)'s Birth Date(s)

3d _____ 3e _____
_____ _____
_____ _____
_____ _____
_____ _____

3f

ORDER INFORMATION: This document is based on the support or withholding order from New York State. 4
You are required by law to deduct these amounts from the employee/obligor's income until further notice.

$ ____5a_____ Per ____5b_____ current child support
$ ____6a_____ Per ____6b_____ past-due child support – **6c Arrears greater than 12 weeks?** ☐ Yes ☐No
$ ____7a_____ Per ____7b_____ current cash medical support
$ ____8a_____ Per ____8b_____ past-due cash medical support
$ ____9a_____ Per ____9b_____ current spousal support
$ ___10a_____ Per ___10b_____ past-due spousal support
$ ___11a_____ Per ___11b_____ other (must specify)_____11c _____.
for a **Total Amount to Withhold** of $_____12a_____per ____12b _____.

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:

$ ____13a__ per weekly pay period $___13b____ per semimonthly pay period (twice a month)
$ ____13c__ per biweekly pay period (every two weeks) $___13d____ per monthly pay period
$_____14___ **Lump Sum Payment:** Do not stop any existing IWO unless you receive a termination order.

Document Tracking ID_____21_____

OMB 0970-0154

Employer's Name: _____ 2a _____ Employer FEIN: _____ 2c _____
Employee/Obligor's Name: _____ 3a _____ SSN: _____ 3b _____
New York Case Identifier: _____ 1l _____ Order Identifier: _____ 1j _____

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 you cannot withhold the full amount of support for any or all orders for this employee/obligor, see *Withholding Limits* on page 3. If the obligor is a non-employee, obtain withholding limits from *Supplemental Information* on page 3. 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** for the employee/obligor's principal place of employment.

For electronic payment requirements and centralized payment collection and disbursement facility information (State Disbursement Unit (SDU)), contact the SDU at 888-208-4485 or see **www.acf.hhs.gov/programs/css/employers/electronic-payments**.

Include the ***Remittance ID*** (until a New York Case Identifier is received), **pay date**, and write "**Non-IV-D Services**" on the payment.

Remit payment to: NYS Child Support Processing Center (SDU)
at PO Box 15363, Albany, NY 12212-5363

☐ **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): _____ **26** _____
Print Name of Judge/Issuing Official: _____ **27** _____
Title of Judge/Issuing Official: _____ **28** _____
Date of Signature: _____ **29** _____

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**.

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.

OMB Expiration Date – 07/31/2017. The OMB Expiration Date has no bearing on the termination date of the IWO; it identifies the version of the form currently in use. 2

Employer's Name:_____2a_____ Employer FEIN: _____ 2c_____
Employee/Obligor's Name: _____3a_____ SSN:_____3b_____
New York Case Identifier: _____1l_____ Order Identifier:_____1j_____

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.

31 **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. In New York State, pursuant to Civil Practice Law and Rules (CPLR) §5241 upon a finding by the Family Court that you failed to withhold or remit withholdings as directed in this IWO, the Court shall issue an order directing your compliance and may direct the payment of a civil penalty not to exceed $500 for the first instance and $1,000 per instance for the second and subsequent instances of noncompliance.

32 **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 after 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 limit set by tribal law.

Depending upon applicable state or tribal law, you may need to consider 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.

33 **Supplemental Information:** (1) **PART A** of this form contains sensitive information and must be served **only** upon the NYS Child Support Processing Center (SDU); **PART B**, which consists of 4 pages, must be served upon the SDU, employer/income withholder, employee/obligor, and custodial party/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) Where the income is compensation that is not paid or payable to the obligor for personal services, there is no limit to the amount you must withhold. (5) 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: _____ 2a _____ Employer FEIN: _____ 2c _____
Employee/Obligor's Name: _____ 3a _____ SSN: _____ 3b _____
New York Case Identifier: _____ 1l _____ Order Identifier: _____ 1j _____

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 the sender by returning this form to the address listed in the *Contact Information* below:

☐ **34a** This person has never worked for this employer nor received periodic income.

☐ **34b** This person no longer works for this employer nor receives periodic income.

Please provide the following information for the employee/obligor:

Termination date: _____ **35** _____ Last known phone number: _____ **36** _____

Last known address: ____ **37** _____

_____

Final payment date to SDU/tribal payee: _____ **38** _____ Final payment amount: _____ **39** _____

New employer's name: _____ **40** _____

New employer's address: _____ **41** _____

_____

CONTACT INFORMATION:

To Employer/Income Withholder: If you have questions, contact ____ **42** _____ (issuer name)

by phone: _____ **43** _____, by fax: _____ **44** _____, by e-mail or website: _____ **45** _____.

Send termination/income status notice and other correspondence to: _____ **46** _____

_____ (issuer address).

To Employee/Obligor: If the employee/obligor has questions, contact _____ **47** _____ (issuer name)

by phone: _____ **48** _____, by fax: _____ **49** _____, by e-mail or website: _____ **50** _____.

The Paperwork Reduction Act of 1995

This information collection and associated responses are conducted in accordance with 45 CFR 303.100 of the Child Support Enforcement Program. This form is designed to provide uniformity and standardization. Public reporting burden for this collection of information is estimated to average 5 minutes per response for Non-IV-D CPs; 2 minutes per response for employers; 3 seconds for e-IWO employers, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

LDSS-5038 (5/15)

Part A

NUMBERED REFERENCE TOOL

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

1	2
□ Family Court: _____ County □ Supreme Court: _____ County	Order ID (Index/Docket Number)

Employee/Obligor Information

3 Name (Last, First, Middle)	
5 Social Security Number - -	6 Date of Birth (MM/DD/YYYY) / /

Obligee Information

7 Name (Last, First, Middle)
8 Mailing Address

Page intentionally left blank.

LDSS-5038 (5/15)

NUMBERED REFERENCE TOOL

INCOME WITHHOLDING FOR SUPPORT

Part B

1a ☐ **ORIGINAL INCOME WITHHOLDING ORDER/NOTICE FOR SUPPORT (IWO)**
1b ☐ **AMENDED IWO**
1c ☐ **ONE-TIME ORDER/NOTICE FOR LUMP SUM PAYMENT**
1d ☐ **TERMINATION OF IWO** **Date:**_____ **1e**_____

1f ☐ 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**). 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 _____ **1g**_____ Remittance ID (include w/payment)_____ **1h**_____
City/County/Dist./Tribe _____ **1i**_____ Order ID_____ **1j**_____
Private Individual/Entity _____ **1k**_____ New York Case ID_____ **1l**

2a _____
Employer/Income Withholder's Name
2b _____
Employer/Income Withholder's Address
_____
_____
Employer/Income Withholder's FEIN_____ **2c**

RE: **3a**_____
Employee/Obligor's Name (Last, First, Middle)
3b_____
Employee/Obligor's Social Security Number
3c_____
Custodial Party/Obligee's Name (Last, First, Middle)
_____

Child(ren)'s Name(s) (Last, First, Middle)	Child(ren)'s Birth Date(s)	
3d _____	3e _____	**3f**

ORDER INFORMATION: This document is based on the support or withholding order from New York State. You are **4** required by law to deduct these amounts from the employee/obligor's income until further notice.

$____ **5a**_____	Per_____ **5b**_____	current child support	
$____ **6a**_____	Per_____ **6b**_____	past-due child support -	**6c Arrears greater than 12 weeks?** ☐ Yes ☐No
$____ **7a**_____	Per_____ **7b**_____	current cash medical support	
$____ **8a**_____	Per_____ **8b**_____	past-due cash medical support	
$____ **9a**_____	Per_____ **9b**_____	current spousal support	
$____ **10a**_____	Per_____ **10b**_____	past-due spousal support	
$____ **11a**_____	Per_____ **11b**_____	other (must specify)_____ **11c**_____	

for a **Total Amount to Withhold** of $_____ **12a**_____ per ____ **12b**_____ ..

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:

$ ____ **13a**__ per weekly pay period
$___ **13b**____ per semimonthly pay period (twice a month)
$ ____ **13c**__ per biweekly pay period (every two weeks)
$___ **13d**____ per monthly pay period
$_____ **14**___ **Lump Sum Payment:** Do not stop any existing IWO unless you receive a termination order.

Document Tracking ID_____ **21**_____

OMB 0970-0154

Employer's Name: _____ 2a _____ Employer FEIN: _____ 2c _____
Employee/Obligor's Name: _____ 3a _____ SSN: _____ 3b _____
New York Case Identifier: _____ 1l _____ Order Identifier: _____ 1j _____

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 you cannot withhold the full amount of support for any or all orders for this employee/obligor, see *Withholding Limits* on page 3. If the obligor is a non-employee, obtain withholding limits from *Supplemental Information* on page 3. 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** 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): _____ **26** _____
Print Name of Judge/Issuing Official: _____ **27** _____
Title of Judge/Issuing Official: _____ **28** _____
Date of Signature: _____ **29** _____

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**.

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:_____2a_____ Employer FEIN: _____ 2c_____
Employee/Obligor's Name: _____3a_____ SSN:_____3b_____
New York Case Identifier: _____1l_____ Order Identifier:_____1j_____

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.

31 **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. In New York State, pursuant to Civil Practice Law and Rules (CPLR) §5241, upon a finding by the Family Court that you failed to withhold or remit withholdings as directed in this IWO, the Court shall issue an order directing your compliance and may direct the payment of a civil penalty not to exceed $500 for the first instance and $1,000 per instance for the second and subsequent instances of noncompliance.

32 **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 after 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 limit set by tribal law.

Depending upon applicable state or tribal law, you may need to consider 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.

33 **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 4 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) Where the income is compensation that is not paid or payable to the obligor for personal services, there is no limit to the amount you must withhold. (5) 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: _____ 2a _____ Employer FEIN: _____ 2c _____
Employee/Obligor's Name: _____ 3a _____ SSN: _____ 3b _____
New York Case Identifier: _____ 1l _____ Order Identifier: _____ 1j _____

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 the sender by returning this form to the address listed in the *Contact Information* below:

☐ **34a** This person has never worked for this employer nor received periodic income.

☐ **34b** This person no longer works for this employer nor receives periodic income.

Please provide the following information for the employee/obligor:

Termination date: _____ **35** _____ Last known phone number: _____ **36** _____

Last known address: ____ **37** _____

_____

Final payment date to Obligee/tribal payee: _____ **38** _____ Final payment amount: _____ **39** ___

New employer's name: _____ **40** _____

New employer's address: _____ **41** _____

_____

CONTACT INFORMATION:

To Employer/Income Withholder: If you have questions, contact ____ **42** _____ (issuer name)

by phone: _____ **43** _____, by fax: _____ **44** _____, by e-mail or website: _____ **45** _____.

Send termination/income status notice and other correspondence to: _____ **46** _____

_____ (issuer address).

To Employee/Obligor: If the employee/obligor has questions, contact _____ **47** _____ (issuer name)

by phone: _____ **48** _____, by fax: _____ **49** _____, by e-mail or website: _____ **50** _____

The Paperwork Reduction Act of 1995

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