

## **ACTION TRANSMITTAL**

**AT-11-05**

**DATE:** May 16, 2011

**ATTACHMENTS:** [OMB 0970-0154 Form Final](#)  
[OMB 0970-0154 Form Instructions Final](#)  
[Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit](#)

**TO:** State and Tribal Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Individuals

**SUBJECT:** Revised Income Withholding for Support (IWO) Form

**BACKGROUND:** Statutory requirements under sections 466(a)(1), (a)(8) and 466(b)(6) of the Social Security Act (the Act) require the use of the Income Withholding for Support (IWO) form in all IV-D cases, and in non-IV-D cases with orders initially issued in the state on or after January 1, 1994. The interim final rule issued on February 9, 1999 [64 FR 6237] implemented section 466(b)(6)(A)(ii) of the Act requiring the use of the OMB-approved IWO form (OMB 0970-0154) [see 45 CFR 303.100(e)(1)]. Private firms, attorneys, and courts authorized under state law to issue IWOs must use the OMB-approved IWO form for all child support income withholding by employers. We urge states to review their income withholding procedures and state plan pre-print pages 2.12-1, 2.12-8, and 2.12-8B to ensure compliance with the income withholding requirements.

Tribes that operate IV-D programs (i.e., child support programs established in accordance with Title IV-D of the Act) are required to use the IWO form. This requirement was established with the publication of the Final Rule for Tribal Child Support Enforcement Programs on March 30, 2004 [69 FR 16638].

### **Changes to the IWO Form**

Comments were solicited for revisions to the IWO form via the Federal Register on June 30, 2010 [75 FR 37816]. The IWO form and instructions were updated for consistency and clarity in light of numerous comments suggesting changes. Key changes include:

- Elimination of shading: Shading of sections in the existing IWO form causes problems when it is faxed to employers/income withholders. Vital information is obscured, requiring employers to contact states to resend the form. We removed the shading in the IWO.
- Requirement of underlying order: We reworded the note on page one to clarify that if the employer or income withholder receives this document from someone other than a state or tribal child support agency or a court, a copy of the underlying order containing a provision authorizing income withholding must be attached.
- Remittance identifier: To prominently display the remittance identifier, we moved it to page one above the case and order identifier. This will ensure employers/income withholders are using the remittance identifier when submitting payments.
- Checkbox for employer returns: We added a checkbox on page two of the form for the employer to indicate that the IWO is being returned because it does not direct payments to the State Disbursement Unit (SDU) or the IWO is not regular on its face. Instructions for this box are located on page two of the form, under "Payments to SDU".

- Employment termination section: We expanded the notification of employment termination section to include change in income status.
- Instructions to reject and return invalid IWOs: We provided guidance in the instructions to the form that indicate the circumstances under which an IWO must be rejected and returned to sender.

### **Approach for Improving the Income Withholding Process**

As stated in DCL-10-14, the federal Office of Child Support Enforcement convened a group of employers, members of the judiciary, and state and federal child support representatives to discuss items that could be addressed to improve the income withholding process and to develop an approach for implementing the improvements. We carefully considered the comments received as we developed the following approach to improve the income withholding process.

#### **IWOs issued on or after 05/31/11 (i.e., new IWOs)**

1. If the IWO is not directed to the SDU as required by federal law [section 454B of the Act] then the employer should reject the IWO and return it to the sender, effective immediately.
2. If the employer receives a document to withhold income that is not issued on the OMB-approved IWO form as required by federal law (section 466(a)(8) and 466(b)(6)(A)(ii) of the Act) then the employer must reject the document and return it to the sender, effective 05/31/12.

#### **IWOs issued before 05/31/11 (i.e., IWOs already processed by employer) \***

1. If the IWO is not directed to the SDU as required by federal law (section 454B of the Act) then the employer should contact the state child support enforcement (CSE) agency in the state that issued the underlying support order on a case-by-case basis to request a revised IWO directing payment to the SDU. The state may use procedures under section 466(c)(1)(E) of the Act, upon providing notice to the obligor and obligee, to direct the obligor or other payor to change the payment destination to the SDU. The employer should continue to send payments to the non-SDU address until the state CSE agency or sender issues a revised IWO directing payment to the SDU.
2. If income withholding is not issued on the OMB-approved IWO form as required by federal law (section 466(a)(8) and 466(b)(6)(A)(ii) of the Act) and the order presents a problem for the employer (i.e., insufficient information to process the IWO) or the order has been modified, then the employer should contact the sender to request an OMB-approved IWO form. The employer should continue withholding income until a new OMB-approved IWO form is received.

\*Please note: If the underlying support order meets any of the following criteria, then there is no requirement for states to process income withholding payments through the SDU:

1. support order initially issued in the state before January 1, 1994 and has never been modified; or
2. support order initially issued in the state before January 1, 1994 and has no arrearages; or
3. support order initially issued in the state before January 1, 1994 and is not associated with a IV-D case.

Attached is a copy of the revised Income Withholding for Support (IWO) form, as required by sections 452(a)(11), 454(9)(E), 466(a)(1), (a)(8) and 466(b)(6) of the Act. Also attached are the instructions to the revised form. The Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit question and answer document is attached to clarify federal requirements regarding the income withholding process.

**SUPERSEDED MATERIAL** : AT-07-07, AT-04-05, AT-01-07, AT-98-03

**REFERENCES** : AT-97-12, AT-97-04

**EFFECTIVE DATE** : States, tribes, and others should begin using this form immediately. States that need additional time to implement use of the IWO form are directed to continue to honor previous forms until 05/31/12, when the requirement for states to use the OMB-approved IWO form must be implemented. The form and instructions are available at <http://www.acf.hhs.gov/programs/cse/forms/>.

**INQUIRIES** : Please contact your ACF/OCSE Regional Program Manager if you have any questions.

Sincerely,

Vicki Turetsky  
Commissioner  
Office of Child Support Enforcement

cc: ACF/OCSE Regional Program Managers  
Tribal IV-D Directors