WEST VIRGINIA CODE: §48-14-408

§48-14-408. Determination of amounts to be withheld.

Notwithstanding any other provision of this code to the contrary which provides for a limitation upon the amount which may be withheld from earnings through legal process, the amount of an obligor's aggregate disposable earnings for any given workweek which may be withheld as support payments is to be determined in accordance with the provisions of this subsection, as follows:

(1) After ascertaining the status of the payment record of the obligor under the terms of the support order, the payment record shall be examined to determine whether any arrearage is due for amounts which should have been paid prior to a twelve-week period which ends with the workweek for which withholding is sought to be enforced.

(2) Prior to January 1, 2001, when none of the withholding is for amounts which came due prior to such twelve-week period, then:

(A) When the obligor is supporting another spouse or dependent child other than the spouse or child for whom the proposed withholding is being sought, the amount withheld may not exceed fifty percent of the obligor's disposable earnings for that week; and

(B) When the obligor is not supporting another spouse or dependent child as described in paragraph (A) of this subdivision, the amount withheld may not exceed sixty percent of the obligor's disposable earnings for that week.

(3) Prior to January 1, 2001, when a part of the withholding is for amounts which came due prior to such twelve-week period, then:

(A) Where the obligor is supporting another spouse or dependent child other than the spouse or child for whom the proposed withholding is being sought, the amount withheld may not exceed fifty-five percent of the obligor's disposable earnings for that week; and

(B) Where the obligor is not supporting another spouse or dependent child as described in paragraph (A) of this subdivision, the amount withheld may not exceed sixty-five percent of the obligor's disposable earnings for that week.

(4) Beginning January 1, 2001, when none of the withholding is for amounts which came due prior to such twelve-week period, then:

(A) When the obligor is supporting another spouse or dependent child other than the spouse or child for whom the proposed withholding is being sought, the amount withheld may not exceed forty percent of the obligor's disposable earnings for that week; and

(B) When the obligor is not supporting another spouse or dependent child as described in

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paragraph (A) of this subdivision, the amount withheld may not exceed fifty percent of the obligor's disposable earnings for that week.

(5) Beginning January 1, 2001, when a part of the withholding is for amounts which came due prior to such twelve-week period, then:

(A) When the obligor is supporting another spouse or dependent child other than the spouse or child for whom the proposed withholding is being sought, the amount withheld may not exceed forty-five percent of the obligor's disposable earnings for that week; and

(B) Where the obligor is not supporting another spouse or dependent child as described in paragraph (A) of this subdivision, the amount withheld may not exceed fifty-five percent of the obligor's disposable earnings for that week.

(6) In addition to the percentage limitations set forth in subdivisions (2) and (3) of this section, it shall be a further limitation that when the current month's obligation plus arrearages are being withheld from salaries or wages in no case shall the total amounts withheld for the current month's obligation plus arrearage exceed the amounts withheld for the current obligation by an amount greater than twenty-five percent of the current monthly support obligation.

(7) The provisions of this section shall apply directly to the withholding of disposable earnings of an obligor regardless of whether the obligor is paid on a weekly, biweekly, monthly or other basis.

(8) The Bureau for Child Support Enforcement has the authority to prorate the current support obligation in accordance with the pay cycle of the source of income. This prorated current support obligation shall be known as the "adjusted support obligation". The current support obligation or the adjusted support obligation is the amount, if unpaid, on which interest will be charged.

(9) When an obligor acts so as to purposefully minimize his or her income and to thereby circumvent the provisions of part 4 of this article which provide for withholding from income of amounts payable as support, the amount to be withheld as support payments may be based upon the obligor's potential earnings rather than his or her actual earnings, and such obligor may not rely upon the percentage limitations set forth in this subsection which limit the amount to be withheld from disposable earnings.

(10) Notwithstanding any other provision of this section, the Bureau for Child Support Enforcement may withhold not more than fifty percent of any earnings denominated as an employment-related bonus to satisfy an outstanding child support arrearage.

(A) Two weeks prior to issuing any bonus equal to or in excess of $100 to an employee or employees, an employer shall notify the Bureau for Child Support Enforcement, in a manner prescribed by the bureau, of the employee or employees' name, address, social security

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number, date of birth and amount of the bonus.

(B) If it is determined that an employee owes an arrearage, an income withholding notice shall be issued pursuant to chapter forty-eight, article fourteen, to the employer.

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