U.S. Department of Labor

Wage and Hour Division
Washington, DC 20210

CCPA2024-01

December 18, 2024

Dear **Name***:

This letter responds to your request for an opinion concerning whether fringe benefits such as payments and reimbursements to employees pursuant to an employer-provided educational assistance program under Section 127 of the Internal Revenue Code ("IRC Section 127") constitute earnings for purposes of applying the Consumer Credit Protection Act's (CCPA) limitations on wage garnishment. We conclude that, as outlined below, such payments and reimbursements do not constitute earnings for purposes of the CCPA's limitations on wage garnishment.

This opinion is based exclusively on the facts you have presented. You represent that you do not seek this opinion for any party that the Wage and Hour Division (WHD) is currently investigating or for use in any litigation that commenced prior to your request.

BACKGROUND

In your request, you ask whether an employer's reimbursement or payment in kind of up to $5,250 in educational benefits constitutes earnings under the CCPA. You stated that the benefits paid "are not related to level of employee pay, services, or performance." You also spoke with WHD staff about your concerns and provided additional information about the educational benefits provided pursuant to a program under IRC Section 127. In general, if such educational benefits do not constitute earnings for purposes of the CCPA's limitations on wage garnishment, an employee subject to a garnishment order and to whom those limitations apply will have lower overall earnings under the CCPA and may have a smaller amount garnished from their pay.

We note that employers may provide employees up to $5,250 in tax-free educational assistance, including in the form of tuition payments or reimbursements, under IRC Section 127.[1] Internal Revenue Service (IRS) guidance provides that payments may be for undergraduate or graduate level courses that do not have to be work-related. IRS guidance also provides that employees do not have to report such assistance as compensation and employers should not include covered assistance in reporting on employee wages, tips and other compensation.

[1] Internal Revenue Service, Frequently asked questions about educational assistance programs, https://www.irs.gov/newsroom/frequently-asked-questions-about-educational-assistance-programs (last reviewed October 23, 2024).

GENERAL LEGAL PRINCIPLES

The CCPA, among other things, limits the amount of an individual's disposable earnings that may be garnished. *See* 15 U.S.C. § 1673; 29 C.F.R. § 870.10–.11.[2] The CCPA defines "earnings" and "disposable earnings." 15 U.S.C. § 1672. "Earnings" are "compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program." 15 U.S.C. § 1672(a). "Disposable earnings" are "that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld." 15 U.S.C. § 1672(b).

The compensatory nature of the payment, i.e., whether the payment is for services provided by the employee is determinative under 15 U.S.C. § 1672(a). "Congress defines the only test as whether the payment is 'compensation paid or payable for personal services.'" *United States v. Ashcraft*, 732 F.3d 860, 863 n.4 (8th Cir. 2013) (quoting 15 U.S.C. § 1672(a) and discussing *Kokoszka v. Belford*, 417 U.S. 642, 651 (1974)).

OPINION

Based on the information provided, payments and reimbursements to employees pursuant to employer-provided tax-free educational assistance programs under IRC Section 127 are not earnings under the CCPA and therefore are not included when applying the CCPA's garnishment limitations.[3]

To determine whether payments and reimbursements pursuant to an educational assistance program are subject to the CCPA's limits on garnishment, one must determine whether the payments constitute "earnings." As noted, the CCPA defines "earnings" as "compensation paid or payable for personal services." 15 U.S.C. § 1672(a). Accordingly, in resolving this issue "the central inquiry for WHD is *whether the employer paid the amount in question for the employee's services*." WHD Op. Letter CCPA2018-1NA at 4 (Apr. 12, 2018). Moreover, the types of payments expressly identified as examples of earnings by the CCPA—wages, salaries, commissions, and bonuses—"relate in some degree to the amount or value of an employee's services" and "normally reward employees for their accomplishments, their amount or length of

---

[2] The CCPA defines "garnishment" as "any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt." 15 U.S.C. § 1672(c).

[3] This opinion addresses only payments and reimbursements for educational benefits provided pursuant to a program under IRC Section 127. Your initial request also referenced several other types of fringe benefits unrelated to educational benefits. While the same legal principles would apply, we do not have sufficient information to conclude whether these other types of benefits would constitute earnings under the CCPA.

service, or their contributions to the enterprise." WHD Op. Letter CCPA2019-1 at 3 (Sept. 10, 2019).

The information that you provided indicates that the payments and reimbursements to employees you question are pursuant to an employer-provided educational assistance program under IRC Section 127 that do not constitute earnings for purposes of the CCPA's limitations on wage garnishment. Other than requiring a certain number of hours worked to be eligible, the program and its benefits are generally available to employees without regard to their salary or wage level, the quality of their work, or the quantity of their work. To receive benefits from the program, the employee need not take courses that are work-related,[4] and, as such, the benefits would not necessarily aid an employee in improving performance in a current position or advancing to a new position. Instead, receipt of benefits depends on whether an employee takes courses and participates in the program. Moreover, the amount of payment or reimbursement does not depend on the employee's compensation or other factors relating to the employee's work performance; instead, that amount depends on the scope of the courses taken by the employee subject to generally applicable limits under IRC Section 127.

For these reasons and based on our understanding of educational assistance programs under IRC Section 127, employer payments and reimbursements to employees pursuant to such programs are not earnings as defined by the CCPA. Therefore, the employer should not include such payments and reimbursements when calculating the employee's disposable earnings for purposes of determining the maximum amount of an employee's pay that may be garnished under the CCPA.

We trust that this letter is responsive to your inquiry.

Sincerely,

Jessica Looman

Jessica Looman
Administrator

***Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b).**

[4] Under IRS guidance, to qualify as a tax-free educational assistance program, the program must be available for courses that are not work-related and not favor employees by income level.