



CCPA-25

August 25, 1970

This is in further reply to your letters of June 25 and July 8, 1970, concerning Title III of the Consumer Credit Protection Act.

In our opinion letter of May 18, 1970, to which you refer we held that a garnishment within the meaning of the definition of section 302(c) of the Act refers to a court proceeding. The employer is ordered not to pay wages to the employee but to answer to the court respecting them, and to hold them subject to the court's decision as to their proper disposition. An assignment of wages is generally a private transaction by which a transfer of the right to receive wages is ordinarily effected by means of a contract. Where wage assignments are executed without resort to court proceedings, they are not within the purview of Title III. If a legal proceeding to enforce a wage assignment results in a judgment with a garnishment order, Title III would then be applicable. Neither of the cases you cite deal with this particular situation and, therefore, it is our opinion that they are not pertinent to the application of Title III. Thus, although certain wage assignments not executed through court proceedings may be treated as garnishments under State laws restricting garnishments, such assignments will not be within the scope of the restrictions prescribed in Title III.

The second questions in your letter of July 8, asks whether deductions made for wage assignments effected without court proceedings are considered as deductions required by law to be withheld in the definition of disposable earnings in section 302(b). Such wage assignments are not so considered and are not restricted by Title III. However, this would not affect a State law which prohibits simultaneous deductions pursuant to a wage assignment and a garnishment.

The second question in your letter of June 25, concerns the meaning of certain recent amendments to New York Civil Practice law and Rules raising the minimum weekly salary subject to income execution. This is something which should be passed upon by the State of New York at least in the first instance. However, where the effect of these changes in a given situation results in a smaller garnishment amount that computation under section 303(a) of the Act, the State law will continue to be applied. As indicated in section 307(1), a provision of State law providing for more limited garnishments than are allowed by this law will not be preempted by Title III.

In reply to your question on payroll deductions for U.S. Savings Bonds, it is our opinion that sums withheld from an employee's pay at his direction for the purchase in his behalf of such bonds are not "amounts required by law to be withheld" within the meaning of section 302(b).

Sincerely,

Robert D. Moran
Administrator