

§ 105-242.1. Procedure for attachment and garnishment.

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20 or, with the agreement of the garnishee, by electronic means. The notice must contain all of the following information, unless the notice is an electronic notice subject to subsection (a1) of this section:

- (1) The taxpayer's name.
- (2) The taxpayer's social security number or federal identification number.
- (3) The amount of tax, interest, and penalties the taxpayer owes.
- (4) An explanation of the liability of a garnishee for tax owed by a taxpayer.
- (5) An explanation of the garnishee's responsibility concerning the notice.

(a1) Electronic Notice. – Before the Department sends an electronic notice of garnishment to a garnishee, the Department and the garnishee must have an agreement that establishes the protocol for transmitting the notice and provides the information required under subdivisions (4) and (5) of subsection (a) of this section. An electronic notice must contain the information required under subdivisions (1), (2), and (3) of subsection (a) of this section.

(b) Action. – A garnishee must comply with a notice of garnishment or file a written response to the notice within the time set in this subsection. A garnishee that is a financial institution must comply or file a response within 20 days after receiving a notice of garnishment. All other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. A written response must explain why the garnishee is not subject to garnishment and attachment.

Upon receipt of a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9, including any penalties imposed in this Article. If the garnishee does not file a response to the notice of garnishment within the time set in this subsection and fails to comply with the notice, the garnishee is subject to the penalties imposed in this Article.

(c) Release. – A notice of garnishment sent to a financial institution is released when the financial institution complies with the notice. A notice of garnishment sent to all other garnishees is released when the Department sends the garnishee a notice of release. A notice of release must state the name and social security number or federal identification number of the taxpayer to whom the release applies.

(d) Financial Institution. – As used in this section, the term "financial institution" has the same meaning as in G.S. 53B-2. (2007-491, s. 30; 2010-31, s. 31.8(i); 2023-12, s. 5.1(b).)