Insight

Another Agency Wants Wage Garnishment Powers

SAM BATKINS | OCTOBER 13, 2015

Today, the Department of Labor (DOL) officially published a rule that allows it to garnish the wages of employees who owe the agency money "without first obtaining a court order." Those are the words of the rule. If that sounds somewhat controversial, it's because it is. DOL could have the power to withhold up to 15 percent of an employee's wages.

On July 2, 2014, the Environmental Protection Agency (EPA) took the extraordinary step of publishing a direct final rule allowing the agency to garnish the wages of individuals who owed them debts or fines. Thankfully, EPA listened to public outcry and withdrew the final rule, although they still might claim the power to garnish wages.

To put wage garnishing in proper context, the American Action Forum released a paper on the EPA's rule highlighting who might be subject to a regulatory taking. Many individuals subject to fines run afoul of routine paperwork violations. For example, some fail to provide the boilerplate notice about lead paint to tenants, even if no lead paint is present. EPA fined others for failing to obtain a permit for burning trash on private property. Regardless of the violation, that an agency wants to garnish wages of regular Americans, not corporate polluters or multinational corporations, is surprising to many.

Now, DOL wants the power, ostensibly granted in the "Debt Collection Improvement Act of 1996." Who owes DOL money? According to guidance, it could be from "unpaid loans, overpayments or duplicate payments made to federal salary or benefit payment receipts."

It is not known how many individuals owe DOL money, or the total amount, or why after several years without this power the agency now deems it appropriate. It is especially peculiar that it declined to issue a proposed rule, thus giving the public greater notice, even in light of EPA's recent controversy on the subject. Although there are provisions for financial hardship that might mitigate the garnishment, the agency notes that only after all amounts are paid, including "interest, penalties, and administrative costs," can individuals receive a notice that garnishment has ended.

Conclusion

First it was EPA, now DOL wants the power to go after the wages of employees. Although this power may be entirely consistent with the law, it still might come as a surprise to most Americans. Wage garnishment by the IRS might make sense, but non-tax debt to EPA and DOL? All of this without first appearing before a judge? Despite the agencies' explanations, there are still countless questions about this intrusive new power.