

Attachment of wages and attachment of regular income

(Virtually) all "regular" (i.e. recurring) income can in principle be attached. This means that wages, unemployment benefit 1 + 2 and pensions can be attached! However, social benefits/basic income, parental benefit up to € 300, maternity benefit or nursing benefit for nursing care by self-supplied carers cannot be attached. In very rare cases, child benefits and housing benefits may be attached.

Remember: These benefits may, however, be attached if they are in your bank account. see information sheet on Attachment of bank accounts under:

www.schuldnerberatung-hessen.de/infoblaetter/englisch/P-Konto%20Englisch.pdf

What happens when income is attached?

The creditor must apply to the body that pays the income (e.g. employer, pension authority, employment agency). This body is called the **third party debtor**.

There are three ways of attaching regular income:

- a)** The creditor has obtained a **so-called title** (e.g. enforcement order, court ruling). With this title he can apply to the court (Vollstreckungsgericht) for your regular income to be attached. The court then issues an **order of attachment and transfer of garnished clause (Pfändungs- und Überweisungsbeschluss [PfÜB])** which the creditor serves on the third party debtor.
- b)** Public creditors (e.g. tax authorities, town purse) initially issue a decision and can then attach wages themselves and serve the **order of attachment and transfer of garnished clause** directly on the third party debtor.
- c)** If the attachable portion of the income has already been assigned to the creditor, he only needs to send a copy of the assignment to the third party debtor. Virtually every loan agreement contains such an **assignment**.

The third party debtor must accept an order of attachment and transfer of garnished clause and an order of attachment. However, he can include a clause in a contract releasing him from the obligation to comply with assignments.

How much can be attached?

The third party debtor must calculate how much of the income can be attached. This is settled by law. He must transfer this amount to the creditor. The remaining part of the income which cannot be attached is paid to the debtor.

a) Table of attachable amounts:

The amount that can be attached depends on your net income and your statutory maintenance obligations:

The table can be found on:

www.f-sb.de/service_ratgeber/tabellen/pfaendungstabelle2011.pdf

Example 1: You are married, have two children and earn € 1900 net per month. € 15.73 of your income can be attached.

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Example 2: You are single, have no children and earn € 1500 net per month. € 329.78 of your income can be attached.

Statutory maintenance obligations that must be counted are maintenance payments to children, spouses (including spouses living in separation or divorced if a court ruling or a notary's deed is presented), parents (e.g. costs of a home or nursing care) and registered same-sex partners. If parents are not married, maintenance must also be paid to the parent with whom the child grows up, at least for the first three years, provided this parent does not have sufficient income.

If the third party debtor does not know of all the maintenance obligations (because they are not entered on the income tax card), the debtor must provide evidence of all maintenance obligations (e.g. acknowledgement of paternity, divorce decree) and the actual payments made. If necessary, the competent court or the official creditor making the attachment will make the decision.

b) Non-attachable parts of income:

The following wage components cannot be attached (gross): Expenses, allowances for special expenditure, half of overtime pay, dirty work bonus, standard amount of holiday bonus and half the Christmas bonus (max, € 500.-).

Example 3: You are single, have no children and earn € 2400 gross including € 200 for overtime. You receive € 1600 net. The employer as third party debtor must deduct half the gross overtime pay (i.e. € 100) from your net wages. The (adjusted) net amount is € 1500. The attachable part of the wages is then € 329.78.

Can several sources of income be added together?

Only income from one person (e.g. pension and wages) can be added together by virtue of a court ruling (or an order by a public creditor). In the case of dual-income families, the creditor seeking to attach the income may ask the court to exclude the spouse with adequate income from maintenance obligations.

Is it possible for a creditor to attach more?

If continuous maintenance payments, maintenance debts from the last 12 months or compensation payments in connection with a wilfully committed criminal act are demanded, the creditor may attach more than is actually calculated on the basis of the "Table of attachable amounts". However, he needs a court order in order to do this. The debtor must be left a minimum to live on - if necessary an application can be made for this to be reviewed.

Can a debtor ask for the amount to be attached to be reduced?

The debtor may apply to the court or public creditor for the attachment amount to be reduced. This is possible, if the debtor can prove that very high (and necessary) costs are incurred for professional or private reasons. Additional professional costs include, for example, high costs of driving to work or childcare costs in the case of a single parent family. Additional private costs include, for example, costs for medicines or special dietary requirements in connection with illness or extraordinary costs after a separation/divorce or release from prison.

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