

Attachment and Garnishment of Bank Accounts: NC Department of Revenue Collection Practices

Tax Section



By [John G. Hodnette](#)

The IRS has a resounding reputation as the tax collecting body to be feared in the United States. It is the North Carolina Department of Revenue (“NCDOR”), however, that should properly be placed on the section of the map marked “Here Be Dragons.” One of the NCDOR’s most effective powers is the Attachment and Garnishment notice. And the NCDOR is certainly not afraid to use it.

Upon failure to pay the NCDOR on the tax due date, a taxpayer is first sent a Notice of Collection requesting the unpaid amount be paid. The notice ominously mentions “no further notice will be issued before legal action may begin” and makes reference to the NCDOR’s ability to garnish wages and withdraw funds from the taxpayer’s bank account, an action that “may cause the bank to freeze funds in the account.” If the taxpayer does not pay in full or enter into an installment agreement with the NCDOR within a few months after receiving the notice, the NCDOR will proceed as indicated.

Your client will next likely contact you in an understandable state of distress. Another notice has arrived and worse still, it is a copy of what has been sent to his or her bank. This Attachment and Garnishment notice informs the bank that the taxpayer owes the NCDOR a certain amount of unpaid taxes and demands the bank withdraw the requested amount from the taxpayer’s account within 30 days. Your

client informs you that he or she tried to log into this bank account upon opening this notice and was greeted by a message stating that the account has been frozen.

Despite the IRS's weighty reputation, it does not typically use these draconian tactics. Moreover, it is not as simple as one would wish to undo the NCDOR's attachment notice. Banks, however, typically will not withdraw the funds until the 30 days have elapsed, so you do have some time.

First, obtain a GEN-58 North Carolina power of attorney for your client. This power of attorney must be faxed to the NCDOR. Unlike dealings with the IRS, one cannot simply call in and fax this form directly to an agent. Rather, after the form is faxed to the general number, it will take the NCDOR a few days to process the GEN-58. During this wait time, your client will not have access to his or her bank account because of the bank's freeze. It may be useful to speak with a bank representative and explain you will soon request for the freeze to be released.

Second, once the GEN-58 has been processed, you will be able to call the NCDOR and request that your client be placed on an installment agreement. Discuss with your client what monthly payment is possible and let your client know a down payment may be required. The NCDOR representative will inform you a hard copy of the installment agreement will be sent to your client in 7-10 days, and only upon your client's signing the agreement will it become effective. During the call, request that the NCDOR send a fax releasing the Attachment and Garnishment notice to the taxpayer's bank. The representative will submit this request and inform you the fax will be sent in the next couple of days.

Finally, inform your client to be on the lookout for the installment agreement in the mail and contact the bank in the next couple of days to ensure the bank received the release. Unfortunately, there are cases where the fax is not initially received, which may require a callback to the NCDOR to request it be sent again or to a different fax number. Upon the bank's un-freezing your client's account and confirmation that your client's signed installment agreement has been sent and received by the NCDOR, you and your client can breathe a sigh of relief. The dragon has been abated for now.

This entire process can take up to two weeks. So long as your client contacts you soon after receiving the Attachment and Garnishment notice, this is well within the 30-day limit. If not, there is a risk the bank will drain the account and remit the requested amount to the NCDOR. By following the above recommended steps, you may avoid this jeopardy for your client.