

CCPA-47

December 28, 1970

This is in reply to your letter of December 10, 1970, regarding Title III, Restriction on Garnishment, of the Consumer Credit Protection Act. You request a ruling on the exemption provided by Regulation Part 870.10(b) when a partial pay period is involved.

You state your client owns a Service Station and normally pays his employees weekly. He has a policy of allowing his employees to take a partial pay or withdrawal in the middle of the pay period if the employee needs and requests it. You maintain that the employee in actuality is cutting the week into two pay periods and therefore that the \$48 weekly exemption applies to each. You quote that part of Regulation 870.10(b) which states, "The statutory exemption formula applies directly to the aggregate disposable earnings for 1 workweek, or a lesser period".

Section 303(a) indicates quite clearly that the withholding formulas are applied to disposable earnings for a week or a pay period. Regulation 870.10(b) refers to a period of less than a week only to make it clear that the formulas also apply when employees work less than a week. For example, it is not unusual for an employee who is paid on a daily or hourly basis to work less than the normal number of days or hours constituting the workweek. Consequently, in the situation you describe, the \$48 restriction applies to the employee's disposable earnings for the entire workweek and not to partial payments or advances made to the employee during the course of the workweek. See, in this connection, the enclosed opinion letter WH-94.

Sincerely,

Joseph P. McAuliffe
Director, Division of Minimum
Wage and Hour Standards