

# Am I Exempt from a Garnishment by a Judgement Creditor?

(Minnesota Residents Only)

## ***What is a judgment?***

If creditors are dissatisfied with your payments, they may choose to sue you. If you are sued by a creditor in an amount you agree you owe and you have no defense, there is no need to contest it. If you do not contest a lawsuit, you do not need to submit and answer or go to court. A judgment in the amount for which you have been sued will be obtained against you. A judgment obtained in Minnesota is valid for 10 years and can be enforced at any time during that 10-year period against your non-exempt income or assets. At the end of the 10 year period, the creditor can file a 10-year extension to the judgment. In some instances a creditor may be able to begin garnishment without prior notification. Therefore, if you have a debt that is significantly delinquent, obtaining legal advice is recommended.

## ***What income may be exempt (protected) from my creditors?***

In Minnesota, you are entitled to the following income exemptions from judgment creditors:

- Net income in the amount of Federal minimum wage X 40 hours per week in earnings from employment
- All welfare benefits based on need (example: Medical Assistance (MA) and Energy Assistance)
- All Unemployment Compensation
- Social Security benefits
- A prescribed level of household goods, furnishings, equity in motor vehicles, homestead and tools of trade are also exempt.

For current figures on these exemptions, contact an attorney or your local legal aid society. **Note: These exemptions do not apply to garnishment on debts owed to the government, such as student loans or taxes, or to child support or spousal maintenance.**

## ***Can a creditor take money out of my bank account?***

Once a creditor is authorized to garnish your income, they will also send a notice to your bank requiring that the bank “freeze” your account up to the amount owed on the debt. You will not have access to the money already in your account at that time and checks you have written may be returned as non-sufficient funds and you may incur overdraft fees. The money in your account may be exempt from being seized by your creditors, however, you must claim an exemption within 14 days of when the bank mails the exemption notice to you, or the bank must turn the funds over to the creditor. **Note: Your tax return may be captured if you owe back taxes, are delinquent on your student loans or child support, or owe medical debt.**

## ***What does it mean to be “judgment proof”?***

If all of the income and assets you currently own fit within the exemptions listed above, you are under no obligation to voluntarily pay any judgment and are considered “judgment proof.” That means these assets cannot be taken away from you. However, a judgment creditor can continue to try to enforce its judgment against you during the life of the judgment, but cannot collect funds on debt owed until you obtain non-exempt income or assets.

## ***What if I have received assistance?***

In Minnesota your wages are **usually** exempt from garnishment, regardless of the amount you earn, if you currently receive relief based on need from any of the following or if you received relief based on need or were incarcerated within the six months immediately preceding the attempted garnishment.

- Minnesota Family Investment Program (MFIP)
- General Assistance (GA)
- Medical Assistance (MA)
- Food support
- Veterans Assistance (VA)
- Fuel Assistance
- Supplemental Security Income (SSI)
- MinnesotaCare

A judgment creditor can freeze your bank account, even though the money in that account may be exempt and will be released to you. Welfare benefits retain their exempt status for only 60 days after deposit in a bank account and exempt wages maintain their exempt status for only 20 days after deposit in a bank account. After that time those benefits and/or wages may be garnished.

### ***What if creditors continue to contact me?***

You are under no obligation to talk with creditors or collection agencies. If a collection agency contacts you and you want them to stop contacting you, you can use a federal law to force them to do so (Fair Debt Collection Practices Act). You can write the collection agency a dated letter, retaining a copy for your files. In the letter instruct the collection agency to stop contacting you about the debt. The collection agency must stop contacting you except to let you know that you are going to be sued or that the debt is going to be turned back to the creditor. If the creditor persists in calling you, contact either the Minnesota Attorney General's Office or the Federal Trade Commission.

Additional information about protecting income and assets from garnishment is available from the MN Attorney General's Office; Protecting "Exempt" Income from Garnishment is available online at [WWW.AG.STATE.MN.US](http://WWW.AG.STATE.MN.US) or by calling 651-296-3353.

Another resource is from the Federal Trade Commission (FTC) at <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt135.shtm>.

**This information sheet is a general guide and not intended as legal advice. Please seek advice from a competent attorney on legal questions you may have.**