

Am I Exempt From Garnishment By A Judgment Creditor? (Minnesota 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 an 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 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 (e.g. Medical Assistance and Energy Assistance), all Unemployment Compensation and 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 at <http://www.smrls.org/> or call (651) 228-9823.

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. 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.

-continued-

Am I Exempt From Garnishment By A Judgment Creditor? (Minnesota Only, page 2)

➤ **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. Judgments can be enforced any time during the life of the judgment - once 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 Minnesota Family Investment Program (MFIP), General Assistance (GA), Medical Assistance (MA), Veterans Assistance (VA), energy assistance, or Supplemental Security Income (SSI), food support, MinnesotaCare, or if you were incarcerated within the six months immediately preceding the attempted garnishment. A judgment creditor can freeze your bank account, even though the money in that account may be exempt. Exempt funds are to be released to you once the bank is given proper notice of exemption. 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, a cease contact letter can be sent to the collector. In the letter, instruct the collection agency to stop contacting you about the debt. And they must 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 calls persist, you may contact the Minnesota Attorney General’s Office to file a complaint.

➤ **RESOURCES ON GARNISHMENT**

- MN Attorney General’s Office (651) 296-3353 or <http://www.ag.state.mn.us/Consumer/Publications/Garnishment.asp>
- Federal Trade Commission <http://www.consumer.ftc.gov/articles/0114-garnishing-federal-benefits>

MOVE FORWARD - CREATE A PLAN