



## HOW TO CLAIM EARNINGS (PAYCHECK) EXEMPTIONS

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*Note: While this resource was written for laypeople, we are submitting it as a tip as many attorneys have asked for instructions for claiming earnings (paycheck) exemptions.*

**Introduction:** These instructions are for people who [1] want to prevent the garnishment of a paycheck, [2] want to stop an ongoing paycheck garnishment or [3] get money back that was garnished from a paycheck.

**Summary of Paycheck Exemptions:** No one can garnish your entire paycheck.

- **75% of your disposable earnings are protected** from most types of creditors. This protection is automatic – your employer should calculate it for you and should not withhold more the 25% unprotected part from your paycheck.
- **All of your earnings are protected:**
  - **If your disposable earnings are less than minimum wage - \$290 per week**, Your employer should make this calculation for you too and tell the creditor if you do not earn enough money to be garnished.
  - **If you have received government assistance based on need** (see list on pg. 3) within the past six month. This protection is not automatic - you must send proof of your government assistance to the creditor to stop the garnishment and/or get your money back.
  - **If you were an inmate in a correctional institution** within the past six months. This protection is also not automatic - you must send proof of your incarceration to the creditor to stop the garnishment and/or get your money back.

**Step 1:** Determine if your whole paycheck is exempt. Look at the list of “Government Assistance Based on Need” (see list on pg. 3) to see if you have received any of these benefits in the last six months.

**Step 2:** Decide if you need to complete the “Debtor’s Exemption Claim Notice. Complete the Exemption Form if you:

- Currently receive Government Assistance Based on Need;
- Received Government Assistance Based on Need within the last 6 months; or
- Were an inmate in a correctional institution within the last 6 months.

If none of these apply, you do not need to complete the Exemptions Form. Your employer will calculate your default exemptions (the 75% standard exemption and your minimum wage exemption) for you.

**Step 3:** Get written proof of your exemption. Get proof of your government assistance such as a benefits statement or proof that you were an inmate in a correctional institution. If the garnishment

has already started, you might *also* need older benefit statements to prove that your earnings were exempt when the garnishment began.

**Step 4:** Fill in the Exemption Form.

- A. Find the line that matches your exemption and fill in the name of your program, case number and county. If you don't know your case number, it is ok to leave this spot blank.
- B. If you receive money from a federal government assistance program (ex.: SSI or EITC) you should write this program on the form. If you don't know your case number, it is ok to leave this spot blank.
- C. Fill in the bottom lines of the form: write the date, sign your name, and write your address and phone number.

**Step 5:** Make two copies of the Exemption Form and all of the documents that prove you received benefits or that prove you were in a correctional institution.

**Step 6:** Keep one copy for yourself, mail one copy to your employer's payroll department and one copy to the creditor.

If you show that your earnings are exempt, then your earning should be protected and all of the money that was already garnished should be returned to you unless the creditor objects. You do not lose the right to claim your exemptions – even if the collector has had your money for a while.

**YOU MIGHT NEED A LAWYER IF:** the creditor objects, the garnishment doesn't stop; or your protected money is not returned to you. If you are low income, you can call Legal Aid.

**If you want to make sure that your Employer is calculating your exemptions correctly:**

1. Calculate your "disposable earnings" (see pg. 3)
2. Find the minimum wage equivalency for your pay periods (see pg. 3)
3. If your disposable earnings are less than the minimum wage, then your employer should not withhold any money for the creditor.
4. If your disposable earnings are more than the minimum wage, calculate 75% of your disposable earnings.
  - a. If 75% of your disposable earnings is more than the minimum wage for the pay period, then your employer should withhold 25% of your disposable earnings for the creditor.
  - b. If 75% of your disposable earnings is less than the minimum wage for the pay period, then you should get paid the minimum wage and the remainder should be withheld for the creditor.

**I. NORMALLY PROTECTED MONEY** (This list shows other types of money that are protected in your bank account. Don't worry about this if the collector is only trying to garnish part of your paycheck from your employer.)

<p>This money is completely protected from most types of garnishment. These “normal protections” will apply in for all debts from credit cards, vehicle loans, medical debts, and landlord-tenant debts. <b>WARNING:</b> these “normal” protections are different if the garnishment is for child support, federal taxes, student loans and a few other less common types of debts.</p>	
<ul style="list-style-type: none"> <li>▪ RSDI - Social Security (Retirement, Survivor &amp; Disability)</li> <li>▪ SSI - Supplemental Security Income</li> <li>▪ MFIP – MN family investment program</li> <li>▪ EA - emergency assistance or county crisis funds</li> <li>▪ GA - general assistance</li> <li>▪ EGA - emergency general assistance</li> <li>▪ MSA - Minnesota supplemental aid</li> <li>▪ MSA-EA - MSA emergency assistance</li> <li>▪ EITC</li> <li>▪ Student Loans, Work Study and Education Grants</li> </ul>	<ul style="list-style-type: none"> <li>▪ MFIP Diversionary Work Program,</li> <li>▪ Work participation cash benefit</li> <li>▪ Food Support</li> <li>▪ Veterans Benefits &amp; Railroad Retirement Benefits</li> <li>▪ Pensions and Annuities from an accident, disability, or retirement</li> <li>▪ Life insurance proceeds</li> <li>▪ Child support paid to you</li> <li>▪ Money from some insurance claims (you might need a lawyer to see if this applies)</li> <li>▪ Earnings of the debtor’s children under 18.</li> </ul>
<p>➤ If the money was garnished from a joint bank account, the other person’s money is protected if they were not listed in the lawsuit.</p>	<p>➤ If the money in the account was being held for someone else, but not in a joint bank account, there might be a way to get that money back but you might need a lawyer’s help.</p>

**II. GOVERNMENT ASSISTANCE BASED ON NEED**

<p>Your Earnings are completely protected for 60 days if you are currently get any of these benefits or if you got any of these benefits within the past 6 months.</p>	
<ul style="list-style-type: none"> <li>▪ MFIP – MN family investment program</li> <li>▪ EA - emergency assistance or county crisis funds</li> <li>▪ GA - general assistance</li> <li>▪ MA - medical assistance</li> <li>▪ GAMC - general assistance med care</li> <li>▪ EGA - emergency general assistance</li> <li>▪ SSI - Supplemental Security Income</li> <li>▪ MSA - Minnesota supplemental aid</li> </ul>	<ul style="list-style-type: none"> <li>▪ MSA-EA - MSA emergency assistance</li> <li>▪ Energy or fuel assistance</li> <li>▪ MFIP Diversionary Work Program,</li> <li>▪ Work participation cash benefit</li> <li>▪ Food Support</li> <li>▪ Minnesota Care</li> <li>▪ Medicare part B premium payments</li> <li>▪ Medicare part D extra help</li> </ul>

	<ul style="list-style-type: none"><li>▪ EITC – Earned Income Tax Credit</li></ul>
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### **III. DISPOSABLE EARNINGS**

$$\text{Paycheck} + \text{Voluntary Withholdings} = \text{Disposable Earnings}$$

“Voluntary Withholdings” are the deductions that you asked your employer to take out of your paycheck for you - usually for retirement or for medical insurance.

### **IV. MINIMUM WAGE FOR DIFFERENT PAY PERIODS**

\$290 every week

\$628 if you are paid twice each month

\$580 every two weeks

\$1256 if you are paid once each month