

What is a garnishment?

A garnishment is a court order telling you or your employer to deduct part of your pay and send it to the court to pay someone who has a judgment against you.

What is a judgment?

A judgment is a decision by a court that one person owes another person money. The court issues a judgment after hearing the evidence. If the case is in small claims court, a judgment may also be entered if the defendant (person being sued) agrees or if the defendant does not come to court for the hearing. If the case is not in small claims court, a judgment may be entered if the person being sued (defendant) does not answer the complaint within twenty days.

When can my wages be garnished?

Your wages can be garnished after a judgment is entered against you and after the creditor files for Proceedings Supplemental. When the creditor finds out where you work, the creditor will send questions to your employer about your wages. Then the creditor will ask the court to issue an order to your employer to pay part of your wages toward the judgment. This payment is made through the court and will last until the judgment is paid or your employment ends.

Is there any limit to the amount that can be garnished from my pay?

Yes. Your income can be garnished only if you earn, after taxes, more than the minimum wage multiplied by 30. The minimum wage is currently \$5.15. The amount that is protected from garnishment is \$154.50 (30 x \$5.15). Your creditor may only garnish income over \$154.50. The actual amount that can be garnished is either 25% of your after tax income or the difference between your income and \$154.50 (whichever is less).

◆ **Example:**

If you earn \$200.00 per week after taxes, the amount of your garnishment will be \$45.50 (\$200 - \$154.50), which is less than 25% of 200 (\$50.00).

◆ **Example:**

If you earn \$300.00 per week after taxes, the amount of your garnishment will be \$75.00 (25% of \$300), which is less than \$145.50 (\$300 - \$154.50).

How can I avoid a garnishment?

It is often possible to avoid a garnishment by entering into a voluntary payment plan with person who sued you. To avoid having to appear in court for proceedings supplemental, you may try to reach a payment agreement as soon as a judgment is entered against you.

Can my Social Security check be garnished?

No. Social Security benefits generally may not be garnished. Once Social Security benefits are deposited into your bank account, the account cannot be attached UNLESS you have other funds in the account.

However, if you owe child support or certain other government debts, it is possible for your Social Security Disability (SSD) to be garnished to pay the unpaid child support. Your SSI cannot be taken.

What if I have child support withheld from my pay?

Child support has priority over other judgments. If child support is withheld from your pay, then your wages may be garnished for a debt only if the child support is not more than the limits on garnishment.

◆ **Example:**

If you earn \$200.00 per week and \$40.00 is withheld from your pay for child support, only \$5.50 can be withheld from your pay due to a garnishment for a debt. The maximum garnishment for someone with \$200.00 in take home pay is \$45.50. If \$40.00 is withheld for child support, only \$5.50 is available for the garnishment.

◆ **Example:**

If you earn \$300.00 per week and \$80.00 is withheld for child support, no amount of your pay can be garnished for a debt. The maximum garnishment for someone with \$300.00 in take home pay is \$75.00. If \$80.00 is withheld for child support, there is nothing available for the garnishment.

What is a personal order of garnishment?

If you are self-employed or unemployed, the court may order you to pay a portion of your future income to your creditor. It will be up to you to make the payments, rather than your employer. Your payments should be based upon the difference between your after tax income and 30 times the minimum wage or 25%, whichever is less.

Can my employer fire me if my wages are garnished?

No. You may not be fired because of a garnishment. If you are fired as the result of a garnishment you have the right to sue for up to six weeks lost wages. You can also sue to get your job back. You must file such a lawsuit within six months of being fired.

What if I have more than one judgment against me?

You may only be garnished by one creditor at a time. The first creditor to get a garnishment order will be paid first. Other creditors will have to wait their turn. As each judgment is paid, the next garnishment order can be honoured. You should never have more than 25% of your pay withheld for judgments. This limit does not apply to child support orders.

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Garnishment: Limitations and Protections for Debtors

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