

How to Claim Personal Property Exemptions

Introduction

This publication has information and sample forms to use to claim that some of your personal property is exempt (protected) from being taken to satisfy a money judgment against you.

Many of these exemptions don't protect your assets against collection for child support debts, tax debts, subrogation claims¹ by the State, or judgments for any part of the purchase price of the personal property.

This publication doesn't discuss wage garnishment or homestead exemptions. For information on wage garnishment, or for information on the process leading to a judgment against you, see our publication [Debtors' Rights in a Lawsuit](#).

What is "exempt property"?

"Exempt property" is property that a creditor **cannot** take to satisfy a judgment against you. If the property is to be taken directly from you, the process is called "execution" or "attachment." If your property is to be taken from another person or bank that is holding it for you, the process is called "garnishment."

What property is exempt?

The main exemptions are:

- Cash welfare benefits (TANF, GAU, etc.), Supplemental Security Income (SSI), Social Security, Unemployment Compensation, student loan, grant or work payments, and almost all pension and retirement benefits. Both the monthly check you receive and any savings you have which you can show came from these sources are usually exempt;
- Clothing;
- All "professionally prescribed health aids"² for the debtor and their dependents;
- Household goods, appliances, furniture, provisions and fuel, up to \$2,700 in value for an individual and \$5,400 for a married couple³;
- Equity in one motor vehicle used for personal transportation, valued at not more than \$2,500 for an individual; or in two such vehicles with an aggregate value not more than \$5,000 for a married couple. "Equity" is the value of a possession minus what's owed on it, and minus any debts for which it's been listed as collateral;
- Tools and instruments necessary to carry on a trade, up to \$5,000 in value;
- Other property, not to exceed \$2,000 in value, including no more than \$200 in cash and no more than \$200 in bank accounts;
- Money paid or owed to you for child support;

¹ A subrogation claim is a type of insurance claim.

² Examples of "professionally prescribed health aids" include wheelchairs and motorized scooters, if your doctor wrote you a note or a prescription to help you get these things.

³ The law uses the expression "marital community." We say "married couple" to make this publication easier to understand.

- Money paid or owed to you for personal bodily injury (not including for pain & suffering or money you lost) of yourself or dependents, up to \$16,150;
- payments compensating you for lost future earnings, to the extent reasonably necessary to support you and your dependents; and
- Wages: the exempt part of your net wages is the *greater* of 30 times the current federal minimum wage or 75% of your net wages. (Call the Department of Labor to find out the current federal minimum wage, or check this website: <http://www.dol.gov/esa/whd/flsa/>. Then multiply that amount by 30. **Effective July 24, 2009, the minimum wage is \$7.25 an hour**). “Net wages” means gross pay minus taxes, Social Security, and other mandatory deductions.

◆ Example: **as of July 24, 2009**, the federal minimum wage is \$7.25 an hour. Therefore, if you make less than **\$217.50** a week net, all of your wages are exempt. If you make **\$400** a week, \$300 is exempt (since \$300 is 75% of your wages, and that amount is more than **\$217.50**).

This publication **doesn’t** discuss the process to claim exemptions from wage garnishment. (See our publication [Debtors’ Rights in a Lawsuit](#)).

How do I determine the “value” of my exempt property?

The “value” of an item of personal property is its fair market value (what it would sell for) at the time it is identified as exempt.

How do I claim these exemptions?

Attachments of personal property

If a judgment has been entered against you, prepare a list of *all* your personal property. Put an asterisk (*) next to the items you believe are exempt under the law.

At the bottom of the list, write or type, “*I declare under penalty of perjury under the laws of the State of Washington that the foregoing is a list of my personal property, household furnishings, tools of my trade and motor vehicles. I believe that the items marked with a “*” are exempt from attachment.*” Sign your name. Write the date.

If the sheriff comes to take your property, give them the list. The sheriff can’t take your property without first determining the value of the items you’ve claimed as exempt. Keep a copy of the list for your records. Note the name of the sheriff’s deputy and the time, date and place you presented the list. See [Sample #1](#). The sheriff should give a copy of this list to your creditor.

Garnishments of personal property or bank accounts

If your property (including money in a bank account) is being held by a third party, the creditor can go to court and get a “writ of garnishment” directed to that third party.

The creditor must mail or serve on you a “Notice of Garnishment and Your Rights.” See [Sample #2](#).

The creditor must also mail or serve on you an “Exemption Claim Form.” See [Sample #3](#). You must fill out this form and mail or deliver one copy to the court clerk and one copy to the creditor or his lawyer *within 28 days after the date shown on the writ of garnishment*.

Whenever possible, attach copies of documents supporting your claims of exemption (example: check stubs or deposit tickets proving that funds in a bank account are exempt as pension payments).

The creditor has 7 days after receipt of your exemption claim form to object to it. If the creditor doesn't object, the property claimed as exempt must be "released" to you no later than 10 days after the creditor receives your claim form. If the creditor objects, s/he must file a statement of the basis for objection and schedule a court hearing within 14 days after receipt of your exemption claim form.

If the court orders at the hearing that your exempt property be released, or if the creditor didn't object (see above), the creditor must deliver an order releasing the exempt property to the "garnishee"⁴ holding your property. If the creditor doesn't deliver this order to the garnishee, contact a lawyer to sue the creditor. The creditor would be liable for any damages you suffer, plus a \$50 penalty, if s/he fails to take steps necessary to release your exempt property. If you make an exemption claim that isn't in good faith, you can be liable for lawyer fees.

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⁴ The "garnishee" is the party who is holding your property, such as the bank holding your money.

SAMPLE #1

The following is a list of all personal property owned or claimed by the undersigned.

Cash, un-deposited checks

- *1. _____
- *2. _____
- *3. _____

Household goods, appliances, furniture, provisions and fuel

- *1. _____
- *2. _____
- *3. _____

Clothing

- *1. _____
- *2. _____
- *3. _____

Tools or instruments of trade or business

- *1. _____
- *2. _____
- *3. _____

Motor vehicles

- *1. _____
- *2. _____

Other personal property

- *1. _____
- *2. _____
- *3. _____

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is a list of my personal property, household furnishings, tools of my trade, and motor vehicles and I believe that the items marked with a * are exempt from attachment.

Signature: _____

Date: _____

SAMPLE #2

NOTICE OF GARNISHMENT AND OF YOUR RIGHTS

A Writ of Garnishment issued by a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

Wages. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse or dependent child, you are entitled to claim an additional ten percent as exempt.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCWA 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts up to \$2,000 of property of your choice (including up to \$200 in case and up to \$200 in value of bank accounts, savings and loan accounts, stocks, bonds, and other securities) and certain property such as household furnishings, tools of trade, a motor vehicle or vehicles, and the right to or proceeds of a payment on account of personal bodily injury, not to exceed \$16,150, as detailed in the statute.

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

SAMPLE #3

COURT OF WASHINGTON

COUNTY OF

vs.

Plaintiff,

Defendant(s),

Garnishee.

NO.

EXEMPTION CLAIM

(EXMPCL)

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first class mail or in person to the clerk of the court, whose address is shown at the bottom of the Writ of Garnishment. Deliver one of the copies by first class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. **YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 weeks) AFTER THE DATE ON THE WRIT.**

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

The account contains payments from:

- TANF, SSI, or other public assistance. I receive \$ _____ monthly.
- Social Security. I receive \$ _____ monthly.
- Veteran's Benefits. I receive \$ _____ monthly.
- U. S. Government Pension. I receive \$ _____ monthly.
- Unemployment Compensation. I receive \$ _____ monthly.
- Child support. I receive \$ _____ monthly.
- Other: Explain _____

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- No money other than from above payments are in the account.
- Moneys in addition to the above payments have been deposited in the account. Explain:

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- I claim maximum exemption.
- I am supporting another child or other children.
- I am supporting a husband or a wife.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

- Name and address of employer who is paying the benefits:

OTHER PROPERTY:

- Describe property: (If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

Name

Spouse's Name

Signature

Spouse's Signature

Address

Address

Telephone

Telephone

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.