



How to Claim Exemptions from Execution on a Judgment and Request a Hearing

Note: Use these forms to stop someone else from wrongfully taking your money or property to pay a judgment. Or you can use these forms to get money or property back if it was wrongfully taken.

These forms may not be right for your case. They cannot take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Print the forms in this packet single-sided, with writing on one side of the page. Do not change the forms. If you change the forms, you might lose language you need.

Who Can Use These Forms?

You can use these forms if:

- ✓ Someone sued you in a Montana state court;
- ✓ The court entered a judgment saying you had to pay another person; and
- ✓ Some of your money or property is exempt. Exempt means it can't be taken to pay a judgment. Use the Exemptions Worksheet in this packet to figure out if any of your money or property might be exempt.



Important: Using these forms will **NOT** make the judgment or your debt go away. The forms can only help make sure your exempt money and property will not be taken to pay the amount awarded in the judgment.

Also, if the other person has already taken your money or property, you only have 10 working days to claim your exemptions. The 10 days start when the Notice of Seizure was mailed or hand-delivered to you. The 10 days do not include weekends or holidays.

What Forms Will I Need?

- Exemptions Worksheet
- Notice of Claimed Exemption(s) and Request for Hearing
- Order Setting Hearing
- Order on Claimed Exemptions



Use the **Exemptions Worksheet** to figure out whether your money or property might be exempt. File the worksheet with your Notice, which is the next form.

The **Notice of Claimed Exemption(s) and Request for Hearing** asks the court to hold a hearing to decide if your money or property is exempt.

The **Order Setting Hearing** is for the judge to fill in, except for the caption that you will fill in. The judge may use the form to set your hearing.

The **Order on Claimed Exemptions** is for the judge to fill in, except for the caption that you will fill in. The judge may use the form to say what is exempt.



What Words Do I Need to Know?

Creditor—A creditor is someone who is owed money. If there is a judgment saying you have to pay another person, the other person is the creditor.

Debtor—A debtor is someone who owes money. If there is a judgment saying you have to pay another person, you are the debtor.

Execute—A creditor executes on a judgment to get money the court awarded to the creditor. Read “How Can a Creditor Execute on a Judgment?” below.

Exempt—The creditor can’t take exempt money or property to pay the amount awarded in the judgment. Use the Exemptions Worksheet below to learn more.

Judgment—A judgment is a decision written by a court. To use this packet, the judgment against you must be from a Montana state court.

How Can a Creditor Execute on a Judgment?

1. **Wage Garnishment**—This means the creditor has the sheriff or levy officer tell your employer to take money from your paycheck.

2. Sheriff's Sale—This means the creditor has the sheriff or levy officer take your property, sell it, and use the money from the sale to pay the creditor.
3. Non-Wage Garnishment—This means the creditor has money taken from your bank account, tax refund, or someone who owes you money.

By law, the creditor has the right to get your money or property in one or more of these ways, unless you claim the money or property as exempt.

Important: Exemptions are not automatic. You must file a Notice of Claimed Exemption(s) and Request for Hearing with the court. The court will then hold a hearing and decide if your property is exempt.

Also, the exemptions in this packet may not apply in every case. For example, the exemptions in this packet may not apply if the judgment is for tax debt.

How Do I Use These Forms?



1 Fill in the Exemptions Worksheet

- ☐ Use the Exemptions Worksheet starting on page 7 of this packet to figure out whether your money or property might be exempt.

2 Fill in the Caption on the Rest of the Forms

- ☐ If your money or property might be exempt, fill in the caption of the Notice of Claimed Exemption(s) and Request for Hearing, Order Setting Hearing, and Order on Claimed Exemption(s) forms. A caption looks like this:

<p>In the (check one box and fill in the blank for the court where you are filing):</p> <p><input type="checkbox"/> Justice Court of _____ County, (county of court where you are filing)</p> <p><input type="checkbox"/> City Court of _____, (city of court where you are filing)</p> <p><input type="checkbox"/> Municipal Court of _____, (city of court where you are filing)</p> <p><input type="checkbox"/> _____ Judicial District Court of _____ County, (number) (county of court where you are filing) State of Montana</p>	
<p>_____ (name(s) of creditor(s))</p> <p style="text-align: right;">Plaintiff(s),</p> <p>v.</p> <p>_____ (your name)</p> <p style="text-align: right;">Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled in by court)</p> <p>Name of Form _____</p>

- ☐ Check the boxes in the Notice of Claimed Exemption(s) and Request for Hearing that are true for you.
- ☐ Make copies of paystubs, bank statements, car loan statements, or other papers about any exemptions you are claiming. Attach the copies to your Notice of Claimed Exemption(s) and Request for Hearing. The copies will help the court decide if your property is exempt.

Note: If you attach a bank statement with an account number, you will also need to use the Privacy Rules Packet. The Privacy Rules Packet can help you ask the court for permission to cross out the account number on the bank statement. It can also help you protect any other private information in your court papers. You can find the Privacy Rules Packet at www.lawlibrary.mt.gov or at www.MontanaLawHelp.org.

- ☐ On the Notice form, circle "Yes" or "No" in the right-hand column to tell the court you are attaching copies of papers about that exemption. The form calls the copies "documentation."
- ☐ Sign and date the form. Also print your name so the court can read it.

3 Fill in the Certificate of Service

- ☐ Fill in the Certificate of Service with information about the creditor(s) and the person who served you with papers in the lawsuit against you. The person who served you could be a sheriff's officer or a process server.
- ☐ Sign and date the forms. Be sure to use the date you will file the forms with the court and mail them. Below your signature, print your name.

4 Make Copies of the Completed Forms and Attached Papers

- ☐ Make 3 copies each of the Exemptions Worksheet, Notice of Claimed Exemption(s) and Request for Hearing, and any attached papers.
- ☐ Make 1 copy each of the Order Setting Hearing and Order on Claimed Exemption(s) forms.



5 File the Forms with the Court


- ☐ Take your original and all 3 copies of your completed Exemptions Worksheet, Notice of Claimed Exemption(s) and Request for Hearing, and attached papers to the Clerk of Court's office for the court that issued the judgment against you. The court should be listed on the first page of the judgment.
- ☐ Ask the clerk to file the original forms and conform the copies. Conform means the clerk keeps the original, and stamps the copies to show when the original was filed. The clerk will give the copies back to you.
- ☐ Ask the clerk if you can lodge the Order Setting Hearing and Order on Claimed Exemption(s) forms. Lodging means the clerk will not file the papers, but will keep them with the file so the judge can use them. It is okay if the clerk will not let you lodge the forms. If that happens, keep the Order on Claimed Exemption(s) forms in a safe place.

6 Mail Copies to the Creditor, and the Sheriff or Process Server



- ☐ On the same day as you file your papers, mail a conformed copy of the Notice of Claimed Exemption(s) and Request for Hearing, Exemptions Worksheets, and attached papers to the creditor.
- ☐ Also on the same day as you file your papers, mail conformed copies of the Notice of Claimed Exemption(s) and Request for Hearing, Exemptions Worksheets, and any attached papers to the process server or sheriff. Mail these to the process server or sheriff who served you in the creditor's lawsuit against you.
- ☐ It is a good idea to get a Certificate of Mailing from the post office for each mailing. It will cost more than a regular mailing. But it will prove that you mailed the papers.
- ☐ Keep your copies of all of the forms, and the Certificates of Mailing if you got them, in a safe place.

7 Go to Your Hearing

- ☐ Wait for the court to give you written notice of the date and time of your hearing. The court may use your Order Setting Hearing form to do this.
- ☐ You **MUST** go to your hearing. The judge might not grant your exemptions if you don't go to the hearing.
- ☐ Bring your stamped copy of your filed court papers to your hearing. Be sure to bring the copies of papers you attached to prove your income or property is exempt. It is possible that the creditor will take more of your money or property after you file your court papers and before the hearing. If that happens, bring proof that the money or property was taken.
- ☐ Arrive at the courthouse at least 15 minutes before your hearing will start. Dress like you were going to an important job interview. 
- ☐ Ask the clerk of court's office to find the right courtroom for your hearing. In some courts, you will have to check in with the clerk of court before going to your courtroom. After you talk with the clerk of court, go to your courtroom and wait for the judge to say your name and case number. Call the judge "Your Honor."
- ☐ If the clerk would not let you lodge the Order on Claimed Exemption(s) form, bring it to the hearing. Say to the judge "Your Honor, I have a Proposed Order form for your consideration." Ask the judge if he or she wants you to give the form to him or her. It is okay if the judge doesn't want the form.
- ☐ The judge will make a decision after the hearing. The judge should enter an order saying what money or property is exempt.

Where Can I Get More Information?



The laws of Montana are called the Montana Code Annotated or "MCA." The laws about claiming certain property as exempt from execution are found in the MCA at Title 25, Chapter 13, Section 212, Section 608, and Section 614. An easier way to write these laws is: § 25-13-212,

MCA, § 25-13-608, MCA, and § 25-13-614, MCA. The symbol § means section. You can find the MCA at your local library or on the Montana State Law Library website at www.lawlibrary.mt.gov. Click on the "Laws" option near the top of the page on that website, and then click on "MCA."

Where Can I Get Legal Help?



These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.
- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. You can contact a Reference Librarian at (800) 710-9827 or by email at mtlawlibrary@mt.gov.

Please Take a Short Survey About These Forms.

When you are done with the forms, please take our online survey at this address:

http://www.surveymonkey.com/s.aspx?sm=fCBbhbbJj4MdOWw_2fjsCjlg_3d_3d



Or you can access the survey on the "Forms" page of the State Law Library website, at www.lawlibrary.mt.gov. Your answers will help make the forms better. Thank you!

(your name)

(your mailing address)

(city) (state) (zip)

(your phone number)

Defendant Pro Se

In the (check **one** box and fill in the blank for the court where you are filing):

☐ **Justice Court of** _____ **County,**
(county of court where you are filing)

☐ **City Court of** _____
(city of court where you are filing)

☐ **Municipal Court of** _____
(city of court where you are filing)

☐ _____ **Judicial District Court of** _____ **County,**
(number) (county of court where you are filing)

State of Montana

<p>_____ (name(s) of creditor(s))</p> <p>Plaintiff(s),</p> <p>v.</p> <p>_____ (your name)</p> <p>Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled in by court)</p> <p>Notice of Claimed Exemption(s) and Request for Hearing</p>
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I am the Defendant. I respectfully ask this Court to schedule a hearing within 10 days to consider if my money or property is exempt from the judgment against me. My written Statement of Claimed Exemptions with the reasons for the claims starts on the next page. I am also attaching an Exemptions Worksheet and any other documentation I have for the claims.

Statement of Claimed Exemptions

Check if Exempt	Income/Property	Reason(s) under Title 25, Chapter 13, Part 6, MCA (check all boxes that are true)	Documentation Attached? (circle one)
<input type="checkbox"/>	Paycheck or other earnings (before the money is deposited in an account)	The earnings are completely or partially exempt. (See attached worksheet.)	Yes / No
<input type="checkbox"/>	Money in my bank account(s)	Exempt because it is from: <ul style="list-style-type: none"> <input type="checkbox"/> Earnings that are completely or partially exempt. (See attached worksheet.) <input type="checkbox"/> Unemployment benefits. <input type="checkbox"/> Social Security/SSI. <input type="checkbox"/> TANF. <input type="checkbox"/> Child support/maintenance. <input type="checkbox"/> Veterans' benefits. <input type="checkbox"/> Retirement benefits. <input type="checkbox"/> Worker's compensation. <input type="checkbox"/> Medical/disability benefits. 	Yes / No
<input type="checkbox"/>	Motor vehicle: _____ _____ (describe the vehicle)	Exempt because it is worth less than \$2,500 after any loans owed on it	Yes / No
<input type="checkbox"/>	Personal property	Total value is not more than \$4,500 and no single item is worth more than \$600	Yes / No
<input type="checkbox"/>	Property used for work by me and/or my dependents	Total value is not more than \$3,000	Yes / No
<input type="checkbox"/>	IRAs/Roth IRAs	Exempt up to the amount I put in and earned before Plaintiff's judgment	Yes / No

Check if Exempt	Income/Property	Reason(s) under Title 25, Chapter 13, Part 6, MCA (<i>check all boxes that are true</i>)	Documentation Attached? (<i>circle one</i>)
<input type="checkbox"/>	My home	Exempt up to \$250,000 in equity	Yes / No
<input type="checkbox"/>	Unmatured life insurance contracts	Total value is exempt	Yes / No
<input type="checkbox"/>	Prescribed health aids	Total value is exempt	Yes / No
<input type="checkbox"/>	Burial plots	Total value is exempt	Yes / No

Date: _____
(*date you file this—mm/dd/yyyy*)

Signature: _____
(*sign your name here*)

Printed Name: _____
(*print your name here*)

CERTIFICATE OF SERVICE

I am sending the Plaintiff(s)/Creditor(s) and Process Server or Sheriff copies of the Notice of Claimed Exemption(s) and Request for Hearing with any papers I attached to it, and my Exemptions Worksheet.

The address I used for the Plaintiff(s) was:

Name: _____
(creditor's name)

Address: _____
(creditor's address)

City, State, Zip _____
(creditor's city, state and ZIP)

The address I used for the Process Server or Sheriff was:

Name: _____
(process server or sheriff's name)

Address: _____
(process server or sheriff's address)

City, State, ZIP _____
(process server or sheriff's city, state, ZIP)

Today's Date (date you are filing): _____
(mm/dd/yyyy)

Signature: _____
(sign your name)

Printed Name: _____
(print your name)

Exemptions Worksheet

This worksheet has three sections: A. Money—Wages, B. Money—Non-Wages, and C. Property. Wages are the money you earn at a job.

After you fill out this form, attach it and any other papers that support your claims to your completed Notice of Claimed Exemption(s) and Request for Hearing.

Note: If you attach a bank statement with your account number, use the Privacy Rules Packet to ask the court for permission to cross out the number. Read more about this on page 4 of this packet.

A. Money—Wages

STEP ONE: Figure Out Your Disposable Earnings

Look at a recent paystub to get the information needed below:

- 1.) Write your **total earnings (gross wages)**: \$ _____
- 2.) Figure out your total taxes withheld:

Write in the withheld social security:	\$ _____
Write in the withheld federal income tax:	+ \$ _____
Write in the withheld state income tax:	+ \$ _____
Write in the withheld Medicaid tax:	+ \$ _____
Write in any mandatory dues in a closed shop:	+ \$ _____
Add the last five lines together. This is your total taxes withheld :	= \$ _____
- 3.) Write in your **total earnings (gross wages)** from above: \$ _____
 Write in your **total taxes withheld** from above: — \$ _____
 Subtract the total taxes withheld from the total earnings (gross wages). This is your **disposable earnings**: = \$ _____

STEP TWO: Figure Out the Most That Can Be Taken From Your Earnings

- 1.) Figure out **Amount A**:

Find your exempt amount in this chart to write on the second line below:

If you are paid:	Once a week	Every two weeks	Twice a month	Once a month
Your exempt amount is	\$217.50	\$435.00	\$467.63	\$935.25

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Disposable earnings (*the last line from Step One*): \$ _____

Minus the exempt amount (*from the chart in Step Two*): — \$ _____

Subtract and write the answer here: \$ _____

Minus child support payments (*write the child support amount you pay to someone else when you are paid*): — \$ _____

Subtract the child support and write the answer here: = \$ _____

This is the total for Amount A ↗

2.) Figure out **Amount B**:

Important: If the judgment against you is for child support or spousal maintenance, different rules apply. Don't use these forms if the judgment against you is for child support or maintenance.

Disposable earnings (*from last line in Step One*): \$ _____

Multiply by .25: x .25

Write the answer here: = \$ _____

Minus child support payments (*write the child support amount you pay to someone else when you are paid*): — \$ _____

Subtract the child support and write the answer here: = \$ _____

This is the total for Amount B ↗

3.) Compare **Amount A** to **Amount B**. The smaller amount of money is the most that can be taken from your wages.

STEP THREE: Protect Your Exempt Wages

Write on the Notice of Claimed Exemption(s) and Request for Hearing. If your employer or bank is taking out more than the amount you figured at the end of Step Two from either your paycheck or your bank account, check the box for that situation. These are the first two boxes you can check on the Notice form. Circle "Yes" in the right-hand column, and attach this completed Exemptions Worksheet. Also attach a copy of your paystubs or bank statements if you have them, to show what has been taken out.

B. Money—Non-Wages

Decide if you have money in your bank account that comes from any source listed below. If you do, check the box on the Notice of Claimed Exemption(s) and Request for Hearing form that says "Money in my bank account(s)." In the column that says "Reasons," check any box that applies to you. Attach to the form copies of papers that show the money in your bank account comes from an exempt source. Then circle "Yes" in the right-hand column. If you do not attach papers, circle "No."

- ☐ Unemployment benefits
- ☐ Social Security/SSI (retirement SSI benefits and Social Security)
- ☐ Disability Benefits (not exempt for back child support or spousal maintenance)
- ☐ TANF
- ☐ Child support/maintenance
- ☐ Veterans' benefits (not exempt for back child support or spousal maintenance)
- ☐ Retirement benefits (some retirement benefits are exempt)
- ☐ Worker's compensation
- ☐ Medical/disability benefits (not exempt for back child support or spousal maintenance)

C. Property

The property listed below may be exempt. If you want to claim property as exempt, check the box on the Notice of Claimed Exemption(s) and Request for Hearing next to the type of property and fill in any blanks for the type of property. If you have papers that show the property's value or your interest in the property, attach them to the form. Then circle "Yes" in the right-hand column. If you do not have any papers, circle "No" in that column.

Note: A creditor who has a judgment must pay off any lien on the debtor's property before executing on it.

- ☐ **Some or all of your equity in your home, if you recorded a homestead declaration before the court handed down the judgment against you**

Your home may be exempt up to \$250,000 in equity. But you probably need to have a homestead declaration that was recorded with the clerk and recorder before the judgment was handed down in order for your home equity to be exempt. And you can't claim a homestead exemption when the judgment against you was for a construction lien, vendor's lien, or mortgage debt secured by the home.

- ☐ **One motor vehicle, if your interest in it is \$2,500 or less**

You may claim one motor vehicle as exempt, but only if your interest in the vehicle is \$2,500 or less. Your interest is the vehicle's sale value minus any loans you owe on it. Figure out your interest in your vehicle:

⇒ Vehicle sale value: \$ _____
⇒ Minus amount you owe on vehicle: — \$ _____
⇒ Equals your interest: = \$ _____

Check the box to claim your motor vehicle as exempt if your interest is less than \$2,500. Attach papers to show the vehicle's worth and how much you owe on it.

- ☐ **Personal property**

Your personal property is exempt up to a total value of \$4,500. Personal property includes furniture, appliances, jewelry, clothing, books, firearms, animals, and musical instruments. No one item you claim as exempt can be worth more than \$600. Attach papers to show the property's value.

- ☐ **Property that you or your dependents need for work**

Property that you or your dependents need for work is exempt up to a total value of \$3,000. This includes tools, equipment, uniforms, books, and other things. You can attach papers to show the property's value.

☐ **Individual Retirement Accounts (IRAs) and Roth IRAs**

Your IRAs and Roth IRAs are exempt up to the amount you put in and earned before the judgment against you. But these accounts are NOT exempt from judgments to collect back child support or maintenance. You can attach account statements to show how much you had put in and earned in the IRAs and Roth IRAs before the judgment against you.

Note: It is not common for a creditor to try to execute on any of the things listed after this box. But if you think a creditor is trying to take these things, you can claim them as exempt.

☐ **Unmatured life insurance contracts**

Your unmaturred life insurance contracts are exempt. You can attach papers about your life insurance contracts.

☐ **Health aids**

Your prescribed health aids are exempt. An example of a health aid is a van with a wheelchair lift prescribed by a health care provider. You can attach copies of your prescriptions to show the aids are prescribed.

☐ **Burial plots**

Burial plots purchased for you and your family members are exempt. You can attach papers to show the burial plot is for you or your family member.