

# REQUEST AND WRIT FOR GARNISHMENT (INCOME TAX REFUND/CREDIT)

Prepared by:  
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## General Information

- Accounts should be at least behind one payment or more.
- The Department of Treasury treats the Garnishments on a first come-first served basis. It is best to have Garnishments mailed on or before November 1<sup>st</sup>.
- Department of Treasury telephone number: (517) 636-5300.

## What to do....FIRST

- First....
  - Review case to verify:
    - A Judgment (consent or default) has been obtained against Defendant for this case
      - If not, cannot Garnish the Defendant.
    - Defendant is not in bankruptcy
      - If so, suspend collection efforts until the automatic stay is lifted.
    - Defendant is not in prison
      - If so, SWEEP prison account.
    - Defendant is not deceased
      - If so, check Probate Court for estate claim and/or discharge debt.

## What to do....SECOND

- Second....
  - Make sure that you have the defendant's:
    - social security number
    - last known address
    - final amount owed

## What to do....THIRD

- Third....
  - Request one check for all Garnishments (\$6.00 each)
  - Prepare Certified Mail/Return Receipt to:  
Third Party Withholding Unit  
Michigan State Department of Treasury  
P.O. Box 15128  
Lansing, MI 48901

## Form Preparation

- Prepare Request and Writ for Garnishment (Income Tax Refund/Credit) and Proof of Service
  - Form is located at <http://courts.michigan.gov/scao/courtforms/garnishment/mc52.pdf>

# Form Instructions

## Request and Writ for Garnishment (Income Tax Refund/Credit)

Use this form if you have a judgment and you want to collect payment on the judgment from the defendant's income tax refund or credit. There is a fee for filing the request.

You cannot use this form to garnish the defendant's wages or other periodic earnings, or checking, savings, or other accounts. Use Form MC 12 to garnish earnings and other income paid to the defendant on a periodic basis. Use Form MC 13 to garnish accounts.

After the writ is issued, you must serve the correct number of copies of this writ on the State of Michigan, Department of Treasury (garnishee) along with a \$6.00 fee. Instructions are included on the form.

The defendant may file objections to the writ with the court. Objections must be filed with the court within 14 days from the date of service of the writ on the defendant.

If objections are filed, the court will schedule a hearing on the objections and notify you of the hearing date.

- Once the Garnishments are signed, make two copies.
- The original and two copies are sent to the Clerk's Office for filing. The two copies should be returned to you.
  - Send one to the Department of Treasury
  - Send one to the Defendant

- Prepare the Proof of Service for each case.
- Each one must be signed.
- File original with the Clerk's Office.

## What happens next?

- Once the Department of Treasury processes the Garnishment, if there is money to be garnished, a Garnishment Disclosure will be sent to you indicating the total amount of the garnishment including court costs and the amount payable to you.
- Payment is usually mailed to you within 28 days of receipt of the Disclosure.
- When the check is received by the Court, process with your normal payment procedures.
- Note the account for future garnishments or prepare a Satisfaction of Debt because of a zero balance.
- File Satisfaction of Debt with the Clerk's Office.
- File the Garnishment Disclosure with the Clerk's Office.

Approved, SCAO

<ul style="list-style-type: none"> <li>• <b>STATE OF MICHIGAN</b></li> <li>    _____ <b>JUDICIAL DISTRICT</b></li> <li>    _____ <b>JUDICIAL CIRCUIT</b></li> </ul>	<b>REQUEST AND WRIT FOR GARNISHMENT (INCOME TAX REFUND/CREDIT)</b>	<ul style="list-style-type: none"> <li>• <b>CASE NO.</b></li> </ul>
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Court address • Zip code Court telephone no.

• This portion to be completed by the court only. **TO THE GARNISHEE: Make the amount intercepted under this writ payable to and mailed to:**     the plaintiff.     the plaintiff's attorney.     the court.

Plaintiff name and address (judgment creditor)	
Plaintiff social security or FE no.	
Plaintiff's attorney, address	
Plaintiff attorney FE no.	Plaintiff attorney telephone no.

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Defendant name and address (judgment debtor)
Social security no.
Garnishee Third Party Withholding Unit Michigan Department of Treasury PO Box 15128 Lansing, Michigan 48901

**REQUEST** **NOTE for item 2:** If a civil judgment includes judgment interest in the "total judgment" field (as in the forms in use before the 5/07 revisions), the interest amount reported in item 2 should not include any postfiling interest already included in the judgment.

1. Plaintiff received judgment against defendant for \$ \_\_\_\_\_ on \_\_\_\_\_ .
2. The total amount of judgment interest accrued to date is \_\_\_\_\_. The total amount of postjudgment costs accrued to date is \_\_\_\_\_. The total amount of postjudgment payments and credits made to date is \_\_\_\_\_. **The amount of the unsatisfied judgment now due (including interest and costs) is • \$ \_\_\_\_\_ .**
3. Plaintiff knows or with good reason believes the state treasurer is indebted to or controls property belonging to the defendant.
4. **Plaintiff requests** a writ of garnishment to intercept income tax.

I declare that the statements above are true to the best of my information, knowledge, and belief.

\_\_\_\_\_  
Date \_\_\_\_\_  
Plaintiff/Agent/Attorney signature

**WRIT OF GARNISHMENT**    **To be completed by the court.**

**TO THE PLAINTIFF:**

1. You must serve this writ on the state treasurer along with a \$6.00 fee and any discovery request for information related to this garnishment.
2. You must serve a copy of this writ on the defendant within 7 days after serving the writ on the state treasurer.
3. You are responsible for paying to the state treasurer any reasonable costs incurred by the state treasurer in providing information in response to your discovery request.
4. If a state tax refund or credit is not intercepted before October 31 of the year during which this writ of garnishment is to be processed, you will not receive a disclosure unless you file a written request with the state treasurer between November 1 and December 31 of the tax year following the tax year for which this writ was filed.

**TO THE DEFENDANT:**

1. If a state tax refund or credit is intercepted under this writ, the state treasurer will notify you on a disclosure form.
2. You have **14 days** after being notified of an intercept to file objections to the writ of garnishment with the court. If you do not object within this time, the intercepted tax refund or credit held under this writ will be applied to the judgment **28 days** after the disclosure was filed with the court.

**TO THE GARNISHEE:**

1. Upon intercepting a state tax refund or credit, calculate the amount available to satisfy all or part of the garnishment.
2. Within 90 days after establishing any other liability for which the state tax refund or credit may be applied under MCL 205.30a file with the court a verified disclosure identifying the intercepted amount, less any setoff, counterclaim, or other demand of the state against the defendant.
3. Unless notified by the court that objections to the writ of garnishment have been filed, payment of the intercepted amount must be made not less than 28 days after filing the disclosure.
4. **You are ordered to pay the amount intercepted under this writ as stated at the top of this form.**

\_\_\_\_\_  
Date of issue \_\_\_\_\_  
Deputy court clerk

**REQUEST AND WRIT FOR GARNISHMENT  
(INCOME TAX REFUND/CREDIT)**  
Case No. \_\_\_\_\_

**PROOF OF SERVICE**

**TO PROCESS SERVER:** You must serve the garnishee with this request and writ of garnishment, the \$6.00 fee, and any attachments, and file proof of service with the court clerk as directed by the plaintiff. If you are unable to complete service, you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notarization not required)	<b>OR</b>	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
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I served the request and writ of garnishment, the \$6.00 fee, and any attachments by:  
 personal service     registered or certified mail (copy of return receipt attached) on:

Garnishee name Michigan Department of Treasury Third Party Withholding Unit	Complete address of service PO Box 15128 Lansing, Michigan 48901	Day, date, time
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I served a copy of the request and writ of garnishment by  
 personal service     first class mail on:

Defendant name	Complete address of service	Day, date, time
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I have personally attempted to serve the request and writ of garnishment on the defendant and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time
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I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

\_\_\_\_\_  
Signature  
 \_\_\_\_\_  
Name (type or print)  
 \_\_\_\_\_  
Title

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Date      Signature: \_\_\_\_\_  
Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received the request and writ of garnishment (and the \$6.00 fee and attachments if applicable) on

\_\_\_\_\_  
Day, date, time  
 \_\_\_\_\_ on behalf of \_\_\_\_\_  
 Signature

# GARNISHMENT DISCLOSURE

Name of Court
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Court for City/County of:	Case Number
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Plaintiff/Trustee
Plaintiff's Attorney

vs. The Michigan Department of Treasury, garnishee defendant, and  
Name of Principal Defendant

Supplementary Disclosure
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According to our records, at the time the writ of garnishment was served, the State of Michigan was indebted to the principal defendant from an overpayment of taxes, credits or lottery winnings.

Department of Treasury Authorized Representative	Disclosure Date
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### PAYMENT INFORMATION

Date Received
Social Security or FE Number
Amount of Garnishment (may include court costs and interest)
Garnishment Fee \$6.00

1. Total garnishment amount including court costs ..... 1. \_\_\_\_\_
  2. Amount payable to ..... 2. \_\_\_\_\_
- The payment will be sent to the payee indicated above in 28 days from the date on this disclosure. If a garnishment, satisfaction of judgment, or bankruptcy notice (validated by the court) is received in our office within the 28 days, we will issue a refund to the principal defendant or bankruptcy trustee if there are no other debts to be paid.