

# State Income Tax Garnishments

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## How We Got Started

During a staff meeting, the court administrator discussed with us the amount of outstanding receivables. Conversations began regarding new ways to collect the money.

We discussed the idea of issuing an income tax garnishment and decided to give it a try. We selected approximately 50 defendants who owed a high dollar amount to the court as a trial run.

The following year, using WORD, a mail merge document was created for form MC 52, Request and Writ for Garnishment. A batch of 880 income tax garnishments were generated and filed with the state.

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

(Form MC 52)

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.

v

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.**

**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

# Results

<b>YEAR</b>	<b>Income Tax Garns Issued</b>	<b>Cost</b>	<b>Total Judgment Amount</b>	<b>Amount Collected</b>
<b>2005</b>	<b>880</b>	<b>\$5,280</b>	<b>\$679,614</b>	<b>\$79,500</b>
<b>2006</b>	<b>1,012</b>	<b>\$6,072</b>	<b>\$601,935</b>	<b>\$34,288</b>
<b>2007</b>	<b>864</b>	<b>\$5,184</b>	<b>\$703,193</b>	<b>\$20,000*</b>

\* Information for 2007 is incomplete

The income tax garnishment project has been very successful! It has proven to give a very good return compared to the amount of effort and dollars invested.

Income tax garnishments have also been effective in having defendants pay the full amount of their judgment or begin payment plans, rather than have their income tax garnished.

# Getting Started

Define your criteria:

1. Choose cases/defendants that owe high dollar amounts.
2. Set a minimum amount.
3. Will you garnish defendants currently on probation?
4. Will you include cases/defendants with active bench warrants for failure to pay?
5. Will you garnish defendants currently on a payment plan?
6. Defendants with multiple cases
  - a. Issue a garnishment on just one case. Pick the one with the highest dollar amount.

## Review Your Cases

Use your case management system. Generate reports using the criteria that you've determined will best fit your court.

Review the case information for required information: **SOCIAL SECURITY NUMBER**

Income tax garnishment requires the defendant's social security number. There are several ways to find a social security number: police reports, use the civil department's case information, etc.

## Other Things to Consider

The plaintiff is the prosecuting official. Get their permission for court staff to sign as an agent (see attached example). Income tax garnishments are filed in the name of "People of State of Michigan" or "People of the City of XXX."

There is a disclosure fee of \$6.00 per income tax garnishment. Will you need to coordinate with your funding unit's treasurer?



**Office of the City Attorney**

241 W. South Street  
Kalamazoo, MI 49007-4707  
Ph. 269.337.8185  
Fx. 269.337.8922

January 5, 2006

Ms Tina Keifer  
Court Administrator  
Eighth District Court  
227 W. Michigan Avenue  
Kalamazoo, MI 49007

Re: **Garnishments**

Dear Tina:

By transmittal of this letter, I am authorizing you or a court employee designated by you to sign any and all garnishment documents necessary for the court to initiate garnishment proceedings against individuals with outstanding balances arising from convictions for violations of City of Kalamazoo civil and criminal ordinances.

This letter shall remain in effect unless revoked by the Kalamazoo City Attorney's Office. I appreciate your attention to this matter and will gladly answer any questions you might have.

Sincerely,

A handwritten signature in cursive script, appearing to read 'A. Lee Kirk'.

A. Lee Kirk  
City Attorney

# Filing the Income Tax Garnishment

Each income tax garnishment must have a court seal.

File income tax garnishments with the Michigan Department of Treasury on November 1 (or the first date of business after November 1 if it falls on a weekend) or after, for the current tax year. Income tax garnishments received by the Michigan Department of Treasury before November 1 will be considered for the prior tax year and will expire on December 31 of the current filing year.

Treasury acts upon income tax garnishments on a first filed-first served basis. The earlier you file the better your chance of intercepting the tax refund. This is the reason why filing only one income tax garnishment per defendant works. If you filed multiple income tax garnishments for the same person, you would be competing against yourself for the tax refund.

To file in person, the doors open at 7:00 a.m. and each person is given a number. Treasury will assist you in filing your income tax garnishments. File at Department of Treasury Ops Center, 7285 Parsons Drive, Lansing, MI.

You must serve the defendant with a copy of the Writ of Garnishment (MC 52). This can be sent by regular mail.

Complete a proof of service for each income tax garnishment.

## What to Expect After Filing

Lots of calls. The income tax garnishment will surprise a lot of people who have ignored other collection efforts.

### Objections to Garnishment

A few defendants may have reason to object to the income tax garnishment. Be prepared by having form MC 49, Objection to Garnishment, available. A hearing will need to be scheduled.

### Need to Release the Garnishment

Some defendants may arrive at the courthouse with payment in full, or documentation of bankruptcy. In these cases, you will need to complete form MC 50, Garnishment Release, to stop the income tax garnishment. The judge may also order the income tax garnishment released after a hearing on an objection to garnishment.

### Money

The court will begin to receive disclosures from the state indicating the defendant name and amount withheld along with a check! You may receive checks all year long. Many people file for an extension of time to file their taxes, or if the state had questions or was reviewing their returns, that too would cause delays, but your garnishment doesn't expire until December 31.

<b>STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT</b>	<b>GARNISHMENT RELEASE</b>	<b>CASE NO.</b>
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Court address

Court telephone no.

Plaintiff's name and address (judgment creditor)
Plaintiff's attorney, bar no., address, and telephone no.

v

Defendant's name and address (judgment debtor)
Social security number
Garnishee's name and address

**TO THE GARNISHEE:**

The garnishment issued on \_\_\_\_\_ is:  withdrawn by the plaintiff.  
Date

cancelled by the court.

You are released from further liability in connection with this garnishment.

Any amounts withheld as of \_\_\_\_\_ shall be returned to the defendant and any further withholdings shall be discontinued.  
Date

Withdrawal authorized on \_\_\_\_\_ by \_\_\_\_\_  
Date Plaintiff/Attorney Bar no.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy court clerk

**CERTIFICATE OF MAILING**

I certify that on this date this release was served on the garnishee and parties/attorneys by ordinary mail at their addresses shown above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
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 <b>\$6.00</b>

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.

# INSTRUCTIONS FOR ISSUING MAIL MERGE TAX GARNISHMENTS

## ENTERING THE INFORMATION

After determining which cases to garnish, open the Excel spreadsheet to begin entering the case information. (We work on this process all summer and fall, as time allows.)

1. Columns A – F Enter the defendant's name and address
2. Column G Enter the case number
3. Column H Enter the date of judgment
4. Column I Defendant's social security number
5. Column J Judgment amount
6. Column K Enter currant balance due
7. Column L Enter prosecuting official location (to end The People of \*\*)

That is all the information that I enter until I'm ready to print the forms.

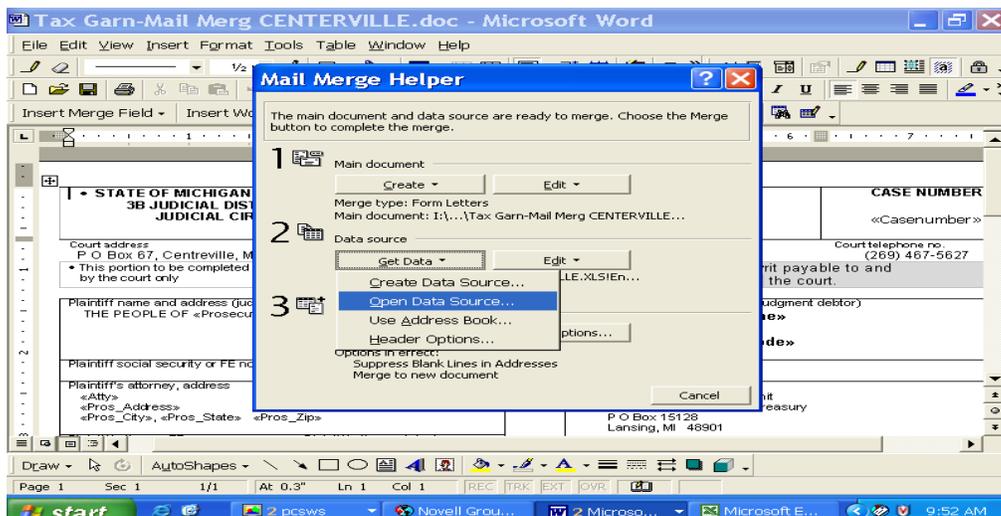
Prior to printing the forms, double check the balance due and make any necessary corrections or delete defendants who may have paid in full.

Sort the Excel spreadsheet by the information entered in column L – Prosecutor

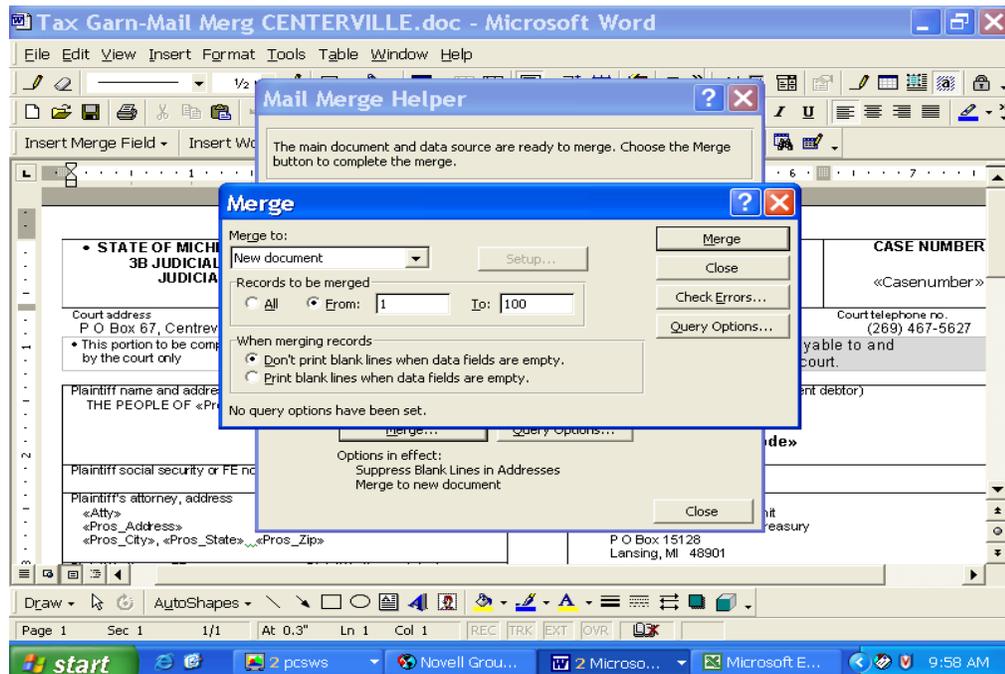
Enter the remaining information required in columns M, N, O, P, Q, and R. Then just copy the information for the remaining cases. Do this for each prosecuting official.

Now, sort the information by defendant last name/first name. The state requires the garnishments to be filed in alphabetical order. Save the spreadsheet.

Open the tax garnishment form. Note, when you open the garnishment form, it will automatically open the Excel spreadsheet attached to the form. You can make multiple spreadsheets if you like. Then open the form by clicking on **TOOLS, MAIL MERGE, DATA SOURCE, GET DATA, OPEN DATA SOURCE**, and then open the appropriate spreadsheet.



## **PRINTING THE FORMS**



When you are ready to print the forms, open the tax garnishment form. Click on **TOOLS** and then **MERGE**. Merge will automatically come up to "New Document" – you may then decided to merge all records or From and To: I have always used the "from and to" because we generate about 1,000 forms and it's just been easier to work with smaller groups of forms. The state requires groups of 50 or less, so that's how I printed them.

After printing, sign and date under the request part of the form and complete the issued part. Make two copies of each garnishment. One for mailing to the defendant, one for the case file.

## **PRINTING MAILING LABELS**

Open TAX GARN LABEL documents, mail merge the labels. Print them for mailing the defendant's copy of the garnishment.

## **PROOF OF SERVICE**

After filing the income tax garnishments with the state, enter the day, date and time on the proof of service. Enter the day and date of the mailing to the defendant. Enter the title of the person who will sign the proof.

Complete the mail merge of the form (you might print these in small groups, also). The person perfecting the service should sign the proof, and then file in case file.

## **DOCUMENTATION**

If you are interested in keeping stats on the amount you've collected through garnishment, just delete some of the columns from the spreadsheet and save it under a different name. Then use it to update as the garnishments come in.