



How to Inform a Debt Collector You Are Collection-Proof

Note: Use these instructions and letter to inform a creditor or debt collector that they cannot use a court judgment to make you pay a debt, because you are collection-proof.

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

Do not change this letter. If you change the letter, you might lose language you need.

What Form Will I Need?

You only need one form. The form is a letter that explains to a debt collector that you are collection proof. The form begins after these instructions and informational sheets.

What Words Do I Need to Know?



Creditor- A creditor is someone to whom you owe money. A creditor can be a business or an individual person.

Debt Collector- A debt collector is a person or company that collects debt owed to a different person or company. A company that is collecting its own debts is **not** a debt collector. For example, if you owe money to a hospital, the hospital is not a debt collector. However, if the hospital has another company collect the debt from you, the other company is a debt collector.

Judgment- A judgment is a court order that says you owe a debt. A creditor or debt collector can sue you in court to get a judgment against you.

Execution- A creditor or debt collector who gets a judgment can then “execute” the judgment against your property or income, to pay your debt. Execution can be in one of two ways:

Sheriff’s Sale- The creditor can ask the sheriff to execute the judgment against your property. This means they sell your property and use the money to pay off your debt.

Garnishment- The creditor might be able to garnish your wages or your bank account. This means your employer or your bank has to take money from your paycheck or your bank account and give it to the creditor.

Exempt- Your income or property might be “exempt.” This means the creditor or debt collector would not be able to use a judgment to take the exempt money or property. To find out if your income or property is exempt, please contact one of the organizations listed under “Where to Get Legal Help” below.

Collection -Proof- If all your income and property is exempt, you are “collection -proof.” This means the creditor or debt collector would not be able to execute a judgment against you, because you do not have enough money or property to pay it.

Who Can Use the Form?

You can use the form if a creditor is threatening to sue you in court and get a judgment against you. This form will **NOT** make your debt go away. The creditor or debt collector may still sue you in court and get a judgment. You will not have to pay the judgment if you are still collection -proof when the creditor or debt collector gets the judgment.

How Do I Use the Letter?

1 Fill in the Form

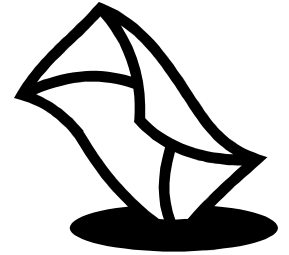
- Fill in all of the blanks.
- Sign the letter.

2 Make a Copy

- Make at least one copy of the letter for yourself. Keep the copy in a safe place. It may be important if you have to go to court.

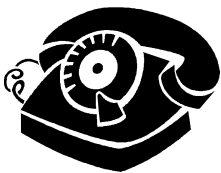
3 Mail Your Letter

- Mail your signed letter to the debt collector. Use Certified and Return Receipt mail. Certified and Return Receipt mail costs a bit more, but it's worth it. The debt collector will have to sign a receipt when they get the letter. The receipt will come back to you. Keep the receipt with your copy of the letter. It may be important later if you have to go to court.



What if the Debt Collector Sues Me Anyway?

The debt collector may still decide to sue you in court. If the creditor or debt collector gets a judgment, you will have to show the court you are still collection-proof. You will have to use a different form. That form is called “Claim of Exemption and Request for Hearing.”



What if the Debt Collector Keeps Contacting Me?

When the debt collector gets your letter, they must stop contacting you!

1 Keep a Record of Any Future Contact

- If the debt collector contacts you again, keep track of it. Keep any letters they send you. If they call you, keep a list of dates, times, the name of the person who called, and what the person said. These records may be important later if you have to go to court.

2 File a Complaint

- File a complaint with the Montana Attorney General by calling 800-481-6896 or e-mailing contactocp@mt.gov.
- File a complaint with the Federal Trade Commission by calling 1-877-382-4357. You may file a complaint online at www.ftc.gov.

3 Call a Lawyer!

- If the debt collector contacts you after they get your letter, they may have broken the law. You may be able to sue them. You can get money if the court finds that the debt collector broke the law. You may also get attorney's fees and court costs. You have one year from the date the debt collector broke the law to file a case. You will probably need a lawyer to do this.





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. The referral is free. 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 1-(800) 710-9827 or by email at mtlawlibrary@mt.gov.



JUDGMENTS & YOUR LEGAL RIGHTS

This worksheet is to determine which of your income and property are exempt from a creditor's judgment against you.

WHAT IS A JUDGMENT?

A creditor can sue you in court for an unpaid debt, in order to get a judgment against you. A judgment is a court order saying the creditor can take your income or assets to pay the debt. If you ignore the lawsuit, the court can enter a judgment against you without hearing your side of the story. You should always respond to a debt collection lawsuit—you do not need an attorney to file your response and appear at the hearing.

Once a creditor has a judgment, they can use it to pay your debt through several methods:

- **Sheriff's Sale of Property:** They can ask the sheriff to "execute" the judgment against your property. However, some or all of your property may be exempt.
- **Wage Garnishment:** They can take the judgment to your employer. Your employer legally must withhold some or all of your paycheck to pay the creditor, except for any amounts that are exempt.
- **Non-Wage Garnishment:** They can take the judgment to your bank. The bank legally must freeze your accounts and pay the creditor with any money that is not exempt.

A judgment creditor cannot take any exempt income or property to pay the judgment.

WHAT INCOME AND PROPERTY IS EXEMPT?

1. TYPES OF PROPERTY THAT ARE EXEMPT



Some or all of your equity in your home may be exempt.

Your home is exempt up to 250,000 in equity. Your home can be subject to execution or forced sale for judgments obtained to pay debts secured by construction or vendors' liens upon the premises or debts secured by a mortgage on the home.



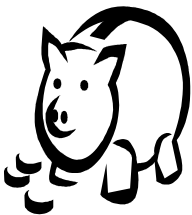
One motor vehicle may be exempt. Your interest in the vehicle may not exceed \$2500. "Your interest" means the sale value of the vehicle minus any loans you owe on it.



Personal property is exempt up to a total value of \$4500. Personal property includes things like furniture, appliances, jewelry, clothing, books, firearms, animals, and musical instruments. No one item can be worth more than \$600.



Property that you or your dependents need for work is exempt up to a total value of \$3000. This includes things like tools, equipment, uniforms, and books.



Individual Retirement Accounts (IRA's) and Roth IRA's are exempt up to the amount you put in and earned before the lawsuit was filed. However, these accounts are NOT exempt from judgments to collect back child support or maintenance.



Unmatured life insurance contracts are exempt.



Health aids prescribed for you or your dependent by a doctor are exempt.
Burial plots purchased for you and your family are also exempt.

2. TYPES OF INCOME THAT ARE EXEMPT

NOTE — These exemptions do NOT apply to garnishments for child support or spousal maintenance orders.

WAGE GARNISHMENT - Some or all of your paycheck may be exempt from garnishment, depending upon how much you earn.

1. **The amount that can be garnished is based on your “weekly disposable earnings.”**

Disposable earnings are your earnings after social security and taxes are taken out. However, your disposable earnings **do** include amounts that are withheld for child support or spousal maintenance.



NON-WAGE GARNISHMENT. Some or all of the money in your bank account may be exempt, depending on where the money came from.

- **This can include some unemployment or public assistance benefits.**

Unemployment insurance benefits
Federal Social Security/SSI/SSDI
Local public assistance benefits

- **This can include some child support or spousal maintenance.**

Child support
Spousal maintenance

- **This can include some retirement or veteran benefits.**

Social Security benefits
Veterans' benefits
Certain Retirement benefits

- **This can include some income or assets related to an injury, illness or disability.**

Insurance benefits paid for medical care, surgery, or hospital care
Worker's compensation benefits
Social Security Disability benefits
Other disability or illness benefits

Date _____ :
(mm/dd/yyyy)

From: _____
Your name

Your mailing address

City State Zip

To: _____
Debt collector's name

Debt collector's mailing address

City State Zip

Re: Account Number _____
(*your account number with debt collector*)

Dear _____ :
(*debt collector's name*)

Your company contacted me about a debt you say I owe. I am not admitting that I owe this money.

I am unable to pay the debt you say I owe. My income and property are exempt from sale or garnishment. This means that even if you got a court order saying I owe the money, you could not collect it from me.

Please stop contacting me about this debt. It is against federal law to contact me again after I have asked you to stop. The law is the Fair Debt Collection Practices Act. I may tell the Montana Attorney General's Office and the Federal Trade Commission if you contact me again. I may also seek legal damages.

Thank you.

Sincerely,

Sign your name here

Print your name here