

STATE INCOME TAX GARNISHMENTS

In the fall of 2007, the 74th District Court issued state of Michigan income tax garnishments on an experimental basis.

A test group of 100 cases in bench warrant status for a year or more with a minimum balance owing of \$250.00 were used.

Of the initial 100 test cases originally used, \$10,705.09 was collected on our accounts receivable as a direct result of the garnishments.

NOT BAD FOR A \$600.00 INVESTMENT.

When filing a state of Michigan income tax garnishment, you must have the defendant's social security number and submit a \$6.00 filing fee with each request. The fee cannot be added to the defendant's balance, nor can it be waived from the defendant's balance. Your 20% late fee is intended to cover such expenses. You will file the Request and Writ for Garnishment (Income Tax Refund/Credit) (Form MC 52). The form can be found online at: <http://courts.michigan.gov/scao/courtforms/garnishment/garindex.htm>.

In the event your garnished case/file is paid in full before receiving any tax return dollars, you must submit a Garnishment Release (Form MC 50), which can also be found on the website listed above.

This year, the 74th District Court anticipates issuing state income tax garnishments on all files in bench warrant status with a balance owing of \$100.00 or more.

COMPLETING THE REQUEST AND WRIT FOR GARNISHMENT

When completing the plaintiff section, remember that the court is never the plaintiff. The plaintiff is the issuing jurisdiction, e.g., state of Michigan, city of Bay City, etc. You can obtain their FE number by contacting the treasurer for that agency.

Always make sure to check the box at the top of the form to have the check mailed to the court. When the check is sent to the court, it is also made payable to the court so you can then apply it to the outstanding balance on the case.

In the center of the form, where it requires a Plaintiff/Agent/Attorney signature, you will need to have the prosecuting attorney for the issuing jurisdiction sign the form.

The signature required on the bottom of the form will be by a court clerk.

Double check your form to ensure that it is filled out in its entirety. Incorrect or incomplete forms will be returned and the \$6.00 filing fee will be forfeited. Pay special attention to the top of the form to make certain you have included the case number and all of the court information.

Once the form has been completed, signed, and issued, you can then send your filings to the state of Michigan. Once the state has been served, you **MUST** serve a copy of the writ/request on the defendant within seven (7) days. Service can be made on the defendant by first class mail.

Once the state of Michigan has received your request for garnishment and the defendant has filed a state tax return, you will be mailed a disclosure form. This form will alert you to the amount of money, if any, that you will be receiving from each defendant.

The request and writ for garnishment should be filed on or shortly after November 1 of the current tax year. Requests for garnishment filed prior to November 1 of the current tax year will be applied by the Department of Treasury to the prior tax year. For example, if you file a request for garnishment on October 1, 2008, the Department of Treasury will attempt to garnish the 2007 state tax return, which will, in most instances, already be in the hands of the defendant or some other authority that has filed a tax garnishment. However, if you file a tax garnishment request on November 1, 2008, or later, the Department of Treasury will garnish the 2008 state tax return. Tax garnishments are processed on a first come, first served basis. If you file your garnishments too late, you run the risk of the defendant having already received their tax refund or another authority getting their garnishment request in before you.

Income tax garnishments can be a very useful tool. Develop a plan before proceeding that includes a tracking method to identify cases paid before tax intercept so the appropriate garnishment release is sent to Treasury.

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

(Form MC 52)

Approved, SCAO

<ul style="list-style-type: none"> • STATE OF MICHIGAN _____ JUDICIAL DISTRICT _____ JUDICIAL CIRCUIT 	REQUEST AND WRIT FOR GARNISHMENT (INCOME TAX REFUND/CREDIT)	<ul style="list-style-type: none"> • CASE NO.
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Court address	• Zip code	Court telephone no.
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• 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
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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
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**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"/> OFFICER CERTIFICATE 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)	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER 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

 Signature

on behalf of _____

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	GARNISHMENT RELEASE	CASE NO.
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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

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

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

- Total garnishment amount including court costs 1. _____
 - 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.