

NOTICE TO JUDGMENT DEBTOR [TCA 26-2-404(a)]

To collect a judgment against you in this lawsuit, your money or other property has been seized by execution or garnishment. An execution allows the sheriff to sell the property levied upon. A garnishment requires your bank (or other person holding your money or property) to transfer your property to the court or to hold it to satisfy the judgment. **READ THIS CAREFULLY. YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY OR GET IT BACK.**

State and federal laws prevent certain types of money or property from being used to pay a judgment. Such money or property is "exempt." Examples of exempt money are: Social Security benefits, SSL, unemployment benefits, Veterans' benefits, AFDC, and most government pensions. Examples of exempt property are certain health care aids and "tools of trade." These examples of exempt money and property constitute only a partial list, and you may have other exemptions.

If you think you have exempt money or property that has been seized, you have the right to file a motion with the court clerk's office identified below claiming your exemption and asking for the release or return of your money or property.

You can get a form for filing this motion at the clerk's office below, or the clerk may have supplied such a form on the back of this notice. **YOU SHOULD ACT QUICKLY.** If you file a motion within twenty (20) days from the date this notice was mailed to you or was given to you, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date, and place of the hearing.

IF YOU DO NOT UNDERSTAND YOUR RIGHTS OR HOW TO EXERCISE THEM, YOU MAY WISH TO CONSULT WITH A LAWYER. IF YOU CANNOT AFFORD A LAWYER, YOU MAY BE ELIGIBLE FOR FREE LEGAL ASSISTANCE.

The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

NOTICE TO THE DEBTOR (EMPLOYEE) [TCA 26-2-216(b)(2)]: Your earnings have been subjected to a garnishment which has been served upon your employer. The garnishment creates a lien on a portion of your earnings until the judgment is satisfied, or for six (6) months, whichever occurs first. You have the following rights:

Some of your wages are protected by state and federal law from garnishment. See the notices below [OR ON REVERSE] to the employer to find out how much of your wages are protected from garnishment.

IF YOUR EMPLOYER IS TAKING TOO MUCH MONEY FROM YOUR WAGES:
You may apply to the court at the clerk's office shown below within twenty (20) days from any improper withholding of your wages for a motion to stop the garnishment. The court clerk identified below shall provide you with a form for making such a motion, or may have supplied a form motion on the back of this notice. You may wish to seek the counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

PLEASE NOTE: If you file a motion, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date, and the place of hearing. The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

IF THE RIGHT AMOUNT OF MONEY IS BEING TAKEN FROM YOUR WAGES BUT YOU WANT TO GET THE GARNISHMENT STOPPED THROUGH A PAYMENT PLAN:

You may apply to the court for an order suspending further garnishments by the same creditor upon your paying a certain sum of money weekly, biweekly, or monthly, to pay the judgment. If you file this motion, the garnishment of your wages will stop for as long as you make the payments ordered by the court.

The court clerk shall provide you with the necessary forms to make this application, or you may seek the counsel of an attorney. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

NAME: _____, Clerk
_____, Court
ADDRESS: _____
TELEPHONE: _____

**TO ALL FINANCIAL INSTITUTIONS:
THESE FUNDS ARE ATTACHED AND SHALL
BE PAID INTO COURT WITHOUT FURTHER
ORDER.**

OFFICER'S RETURN (other than wage garnishment); executed as follows:

[OR] executed by LEVYING on the following described property:

On this _____ day of _____, 20____.

Deputy Sheriff/Constable

OFFICER'S RETURN (on wage garnishment) [TCA 26-2-216(b)(1)(A)]

I acknowledge receipt of 3 copies of the garnishment summons on the abovementioned employee on _____ day of _____, 20____.

Employer or Employer's Agent

Executed by serving _____

On this _____ day of _____, 20____.

Deputy Sheriff/Constable

AFFIDAVIT FOR EXECUTION

Having first been duly sworn according to law, I hereby make oath that the following information is true to the best of my knowledge and belief:

Judgment Creditor's Address for mailing notices required by TCA 26-2-402:

Telephone No.: _____

Judgment Debtor's Name and Last Known Address:

Telephone No.: _____

Balance on Judgment including original Cost \$ _____

By: _____

Judgment Creditor/Agent

Sworn to and subscribed before me on _____ day of _____, 20____

Deputy Clerk/Notary Public

My Commission Expires: _____

Application for Execution

The Judgment Creditor hereby makes application to the Clerk of the _____ Court to have an Execution in the above styled case to satisfy a judgment against the Judgment Debtor(s) herein:

Date of Judgment _____
Judgment Balance \$ _____
Pre-Paid Cost \$ _____
Interest \$ _____
Clerk's Fees \$ _____
Officer's Fee \$ _____
Total \$ _____

Judgment Creditor/Agent

Issued this _____ day of _____, 20____

By _____

Case/Docket No. _____

EXECUTION

_____ COUNTY _____ COURT

Garnishment Levy
 on Financial Institution/Bank

Plaintiff

VS.

Defendant

Judgment Debtor's SSN/EIN: _____

To: _____
Employer (if wage garnishment) or other garnishee

Address: _____

To: _____
Financial Institution/Bank

Account No: _____

Address: _____

Levy On: _____

AFFIDAVIT FOR OFFICER

WAGE GARNISHMENT

I, _____, Deputy Sheriff/Constable after

being sworn, make oath that:

A garnishment summons was served on _____ employer garnishee, on _____ day of _____, 20____, and that the employer garnishee refused to sign a receipt acknowledging service of said summons.

[TCA 26-2-216(b)(1)(B)]

RE: COPY FURNISHED JUDGMENT DEBTOR

A copy of the execution by levy was mailed to the judgment debtor at the address provided pursuant to TCA 26-2-402 or was provided by actual hand delivery. [TCA 26-2-405]

Please Print: Deputy Sheriff/Constable

Signature

Agency Address

My Commission Exp: _____

Notary

My Commission Exp _____

EXECUTION: GARNISHMENT or LEVY

STATE OF TENNESSEE

WRIT OF EXECUTION

COUNTY

TO ANY LAWFUL OFFICER OF

COUNTY

COURT

You are commanded to take and levy the judgment debtor's property, the balance of the below judgment, plus costs and interest thereon and hereby satisfy a judgment by this court, in favor of the judgment creditor. Have you said monies, together with this writ, ready to render this court 30 days from the date hereof, or within.

GARNISHMENT

To Employer or Other Garnishee:

By virtue of the above command (or an attachment in my hands), any funds or property in your hands owing to judgment debtor are hereby sequestered.

You are summoned to answer in writing within 10 days of service of this garnishment: [TCA 26-2-203(a), TCA 26-2-204, TRCP 69.]

(1) Whether you are, or were, at the time of the service of this garnishment indebted to the judgment debtor; if so, how and in what amount;

(2) Whether you had in your possession, or under your control, any property, debts, or effects belonging to the judgment debtor at the time of service of this notice, or at the time of answering, or at any time between the date of service and the time of answering: if so, the kind and amount.

(3) Whether there are, to your knowledge and belief, any and what property, debts, and effects in the possession or under the control of any other, and what, person;

(4) Such other questions appearing on or attached to the original execution put to you by the court or the judgment creditor as may tend to elicit the information sought.

YOU ARE FURTHER NOTIFIED AND REQUIRED to pay no debt due by you, or to become due, to said judgment debtor, and to retain possession of all property of the judgment debtor, EXCEPT as to earnings in excess of the amount to be retained by this garnishment. This lien shall continue as to subsequent earnings until the total amount due upon the judgment and costs is paid or satisfied, OR until the expiration of the employer's payroll period immediately prior to SIX (6) CALENDAR MONTHS after service of the execution, whichever occurs first. A lien obtained hereunder shall have priority over any subsequent liens obtained hereunder. [TCA 26-2-214(b)(1).]

NOTICE: TO EMPLOYER

YOU ARE REQUIRED TO WITHHOLD THE GARNISHMENT AMOUNT, OR PART THEREOF, FROM THE EMPLOYEE'S WAGES AND TO PAY THESE MONIES TO THE COURT NOT LESS THAN ONE TIME EACH CALENDAR THIRTY (30) DAYS. YOU ARE LIABLE FOR FAILURE TO WITHHOLD FROM THE EMPLOYEE'S WAGES AND FAILURE TO PAY THESE MONIES TO THE COURT. TO ENSURE PROPER CREDIT, INCLUDE THE JUDGMENT DEBTOR'S NAME AND THE DOCKET NUMBER ON THE PAYMENT AND MAIL TO: [TCA 26-2-216(b)(1)(C) & TCA 26-2-215.]

_____, Clerk, _____ Clerk Title

Address

NOTICE TO GARNISHEE [TCA 26-2-203(b)]

NOTICE: Although you have a longer time in which to answer the court concerning this garnishment, you must do the following on the same day you receive the garnishment, or on the next working day. Determine if you possess or control money or property of the judgment debtor. If so, within that same time period, you shall furnish a copy of the garnishment summons and Notice to Judgment Debtor by mailing them first class, postage prepaid, to the judgment debtor's last known address as shown by your records, or by actual delivery to the judgment debtor. If the address shown by your records differs from that shown on this execution form, you shall also mail a copy of the garnishment and notice to the latter address.

ANSWER OF GARNISHEE (Non-Wage) Docket/Case#

As of the _____ day of _____, 20____, _____, Garnishee, who is NOT AN EMPLOYER, is holding the sum of \$_____ owed or belonging to Judgment Debtor. I certify under penalty of perjury that the above information is true and correct.

Garnishee [one holding asset(s) owed or belonging to Judgment Debtor]

NOTICE TO THE GARNISHEE (EMPLOYER)

[TCA 26-2-216(b)(2)]

THE MAXIMUM PART OF THE AGGREGATE DISPOSABLE EARNINGS OF AN INDIVIDUAL FOR ANY WORK WEEK WHICH IS SUBJECTED TO GARNISHMENT MAY NOT EXCEED:

(a) Twenty-five percent (25%) of the garnishee's [sic "debtor's"] disposable earnings for that week, minus \$2.50 for each of the garnishee's [sic "debtor's"] dependent children under the age of sixteen (16) who resides in the State of Tennessee as provided in TCA 26-2-107: or

(b) The amount by which the garnishee's [sic "debtor's"] disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage at the time the earnings for any pay period become due and payable, minus \$2.50 for each of the garnishee's [sic "debtor's"] dependent children under the age of sixteen (16) who resides in the State of Tennessee, whichever is less.

"Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

In the case of earnings for a pay period other than a week, the weekly formula must be changed to apply to that pay period so as to exempt an equivalent percentage of disposable earnings. For example, the calculation concerning the federal minimum wage in subsection (b) should be computed as follows: **WEEKLY:** 30 times the federal minimum hourly wage (fmw) at the time the earnings for any pay period become due and payable; **BIWEEKLY:** 2 times 30 fmw; **SEMI-MONTHLY:** 2 and one sixth (2-1/6) times 30 fmw; and **MONTHLY:** 4 and one third (4-1/3) times 30 fmw equals the amount to be subtracted from disposable earnings for that pay period.

If the judgment orders alimony and the person in whose favor the judgment was rendered has remarried, the above exemption applies. If the judgment orders the debtor to pay support for the debtor's minor child or children, or alimony and the person in whose favor the alimony judgment was rendered has not remarried, different standards apply under 15 USCS § 1673(b). If the debtor is supporting a spouse or dependent child other than those for whom the order was entered, then fifty percent (50%) of the debtor's disposable earnings may be garnished. If the debtor is not supporting such additional dependents, a maximum of sixty percent (60%) may be garnished. These figures rise to fifty-five percent (55%) and sixty-five percent (65%), respectively, if the support order is for a period more than twelve (12) weeks before the pay period to be garnished.

If the judgment is for state or federal taxes, no disposable earnings are exempt under 15 USCS § 1673(b).

GARNISHMENT CALCULATION FOR:

(Name of employee)

ANSWER OF GARNISHEE (Employer) Docket/Case #

(Garnishment Calculation: TCA 26-2-404(b), as defined in TCA 26-2-216)

Pay period from _____ to _____

(1) IF THE JUDGMENT IS FOR ANY DEBT OTHER THAN FOR ALIMONY OR CHILD SUPPORT:

- (A) What is the total gross pay before any deductions? \$ _____(b)(1)(A)
- (B) How much is deducted from pay for social security and federal income tax? _____(b)(1)(B)
- (C) Subtract subdivision (b)(1)(B) from subdivision (b)(1)(A) _____(b)(1)(C)
This is disposable earnings.
- (D) Are wages paid once every week, once every two (2) weeks, once a month or two (2) times per month? (fmw = federal minimum hourly wage)
If once every week, enter 30 X fmw. _____(b)(1)(D)
If once every two (2) weeks, enter 30 X fmw X 2. _____(b)(1)(D)
If two (2) times per month, enter 30 X fmw X 2.166667. _____(b)(1)(D)
If once per month, enter 30 X fmw X 4.333334. _____(b)(1)(D)
- (E) Subtract subdivision (b)(1)(D) from subdivision (b)(1)(C). _____(b)(1)(E)
If subdivision (b)(1)(E) is \$0 or less, STOP. NO WAGES MAY BE WITHHELD.
If subdivision (b)(1)(E) is more than \$0, go on to (F).
- (F) Divide subdivision (b)(1)(C) by 4. _____(b)(1)(F)
- (G) Enter the lesser of subdivision (b)(1)(E) or subdivision (b)(1)(F). _____(b)(1)(G)
- (H) How many children does the debtor have under sixteen (16) years of age living in Tennessee? _____(b)(1)(H)
- (I) Multiply subdivision (b)(1)(H) by \$2.50 per week [\$5.00 if wages are paid every two (2) weeks; \$5.42 if paid two (2) times per month; and \$10.83 if paid once per month]. _____(b)(1)(I)
- (J) Subtract subdivision (b)(1)(I) from subdivision (b)(1)(G). _____(b)(1)(J)

This is the amount of wages to withhold. If this amount is \$0 or less, nothing should be withheld from wages.

(2) IF THE JUDGMENT IS FOR CHILD SUPPORT OR ALIMONY:

- (A) If the judgment is for alimony and the ex-spouse has remarried, withhold the amount in subdivision (b)(1)(J). \$ _____
- (B) If the judgment is for child support, or the judgment is for alimony and the ex-spouse has not remarried, multiply disposable earnings (subdivision(b)(1)(C)) by:
_____.50 if the employee is supporting another spouse or child and the arrearage is less than twelve (12) weeks old; _____
_____.55 if the employee is supporting another spouse or child and the arrearage is more than twelve (12) weeks old; _____
_____.60 if the employee is NOT supporting another spouse or child and the arrearage is less than twelve (12) weeks old; _____
_____.65 if the employee is NOT supporting another spouse or child and the arrearage is more than twelve (12) weeks old. _____
Withhold this amount (*in preceding blank*) from wages, or the amount actually ordered to be paid for alimony or child support, whichever is less. \$ _____

Nothing Due Employee No Longer Employed

Other _____

As of _____ day of _____, 20____,

_____, Garnishee,

is holding the sum of \$ _____

I certify under penalty of perjury that the above information is true and correct.

Date: _____

_____, Garnishee/Employer