

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO)
RULES OF CIVIL PROCEDURE (I.R.C.P.)) ORDER

In compliance with requirements of 2017 Senate Bill 1202, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Rules of Civil Procedure, be and hereby are amended as follows:

1. That a NEW Rule 69.1 be, and the same is hereby, ADOPTED as follows:

Rule 69.1. Claim of Exemptions; Interrogatories Submitted to Garnishee; Forms. The forms used for notice of exemptions, instructions to debtors and third parties, claim of exemptions or third party claim, and interrogatories submitted to garnishee must be in substantially the form found in Appendix B.

2. That APPENDIX B of the Idaho Rules of Civil Procedure be, and the same is hereby, amended to include the following forms attached hereto and incorporated by reference herein:

- (a) NOTICE OF EXEMPTIONS
- (b) INSTRUCTIONS TO DEBTORS AND THIRD PARTIES
- (c) CLAIM OF EXEMPTIONS OR THIRD PARTY CLAIM
- (d) INTERROGATORIES TO GARNISHEE

IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2017.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of The Advocate.

DATED this 30th day of June, 2017.

By Order of the Supreme Court


Joel Horton, Justice

ATTEST: 
for Clerk

I, Karel A. Lehrman, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
certify that the above is a true and correct copy of the
Order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court 6/30/17
Karel A. Lehrman, Clerk

By  Deputy

**NOTICE OF EXEMPTIONS
IMPORTANT LEGAL NOTICE / AVISO LEGAL IMPORTANTE**

TIME SENSITIVE

Claim of Exemption is Due Within 14 Days of Mailing or Service To You

YOUR MONEY OR OTHER PROPERTY HAS BEEN TAKEN TO PAY A COURT JUDGMENT. YOU MAY BE ABLE TO GET YOUR MONEY OR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

SU DINERO U OTROS BIENES SE HAN CONFISCADO PARA PAGAR UN FALLO JUDICIAL. TAL VEZ PUEDA RECUPERAR SU DINERO O SUS BIENES, ASÍ QUE LEA ESTE AVISO CON DETENIMIENTO. SI SOLAMENTE HABLA ESPAÑOL, PUEDE OBTENER UN FORMULARIO EN ESPAÑOL EN LA OFICINA DEL SHERIFF

WHY AM I RECEIVING THIS NOTICE?

A court has determined that you owe (amount owed) \$ _____ to: (plaintiff's name) _____, the judgment creditor. You are receiving this notice because the judgment creditor has directed the sheriff to collect your wages, funds, benefits and property to pay this judgment.

WHAT ARE MY RIGHTS?

Idaho and federal law protect certain wages, funds, benefits and property from being taken to pay certain types of judgments. These protected wages, funds, benefits and property are **exempt** from garnishment. To protect your wages, funds, benefits and property, you must file a *Claim of Exemption*.

WHAT IS A CLAIM OF EXEMPTION?

A *Claim of Exemption* will notify the sheriff that the wages, funds, benefits and property which have been taken are **exempt** from garnishment, and the money or property should be returned to you. A copy of the *Claim of Exemption* form and instructions for filling it out and returning it to the sheriff has been included with this notice. You can download a *Claim of Exemption* form at <https://isc.idaho.gov/ircp-new>, at the bottom of the page under Appendix B.

WHAT EXEMPTIONS ARE AVAILABLE TO ME?

This notice includes a *Partial List of Exemptions* under Idaho and Federal Law. The list may not include all exemptions that apply in your case because of periodic changes in the law.

WHAT IS MY NEXT STEP?

Immediately return a completed *Claim of Exemption* to the sheriff at: (sheriff's address) _____.

If you fail to return a Claim of Exemption Form to the sheriff within fourteen (14) days of the mailing/service of this notice, your wages, money, benefits and personal property will be released to pay the judgment. For mailed documents, the 14-day period starts running from the postmark date. You may also lose your right to claim an exemption or you may have to bring further court action to recover your wages, money, benefits and property.

WHO CAN I CONTACT IF I NEED HELP?

If you have any questions concerning your rights in this matter, you should contact an attorney as soon as possible. More information on Claim of Exemption and Garnishments is available from the local court assistance office at www.courtselfhelp.idaho.gov/find-office and Idaho Legal Aid Services, Inc. at www.idaholegalaid.org/node/1564/execution-and-garnishment-judgments. If you cannot afford an attorney, you may contact the nearest office of Idaho Legal Aid Services, Inc. to see if you are eligible for their assistance. See Contact Us: www.idaholegalaid.org.

PARTIAL LIST OF EXEMPTIONS

MONEY AND BENEFITS: Most exemptions are provided by the State of Idaho in Title 11, Chapter 6 of the Idaho Code. <https://legislature.idaho.gov/statutesrules/idstat/Title11/>. Some exemptions will not apply to child support orders.

1. **Wages.** 75% of your disposable earnings. If 75% of your disposable earnings is less than 30 times the federal minimum wage, you are entitled to keep 30 times the federal minimum wage. (I.C. § 11-207)

Amount Available for Garnishment based on \$7.25 Minimum Wage

<u>Weekly</u>		<u>Biweekly</u>		<u>Semimonthly</u>		<u>Monthly</u>	
Wages	Garnishment	Wages	Garnishment	Wages	Garnishment	Wages	Garnishment
\$217.50	NONE	\$435.00	NONE	\$471.25	NONE	\$942.50	NONE
\$270.50 to \$290	Amount ABOVE \$270.50	\$435 to \$580	Amount ABOVE \$435	\$471.25 to \$628.34	Amount ABOVE \$471.25	\$942.50 to \$1256.67	Amount ABOVE \$942.50
More than \$290	Up to 25%	More than \$580	Up to 25%	More than \$628.34	Up to 25%	More than \$1256.67	Up to 25%

2. **Earned but Unpaid Wages.** Total value cannot exceed \$1,500 (I.C. § 11-605(1)).
3. **Public Assistance.** All federal, state, and local public assistance you are receiving, including (but not limited to) TANF, AABD (Old Age Assistance, Aid to the Blind, Aid to Disabled), SNAP Benefits (food stamps), etc. (I.C. § 11-603(4))
4. **Social Security, SSI, SSDI Retirement and Disability Benefit.** (42 U.S.C. § 407)
5. **Workers Compensation.** (I.C. § 72-802, 5 U.S.C. § 8130)
6. **Employee Benefits.** Pensions, Annuities, Retirement Allowances, Disability Allowances, Death Benefits, Profit Sharing Plans, Stock Bonus, etc. (I.C. § 11-604A(3))
7. **Retirement Benefits.** Government Pensions, IRAs, 401(k) and 403(b) accounts. (I.C. § 11-604A)
8. **Military Retirement and Survivor's Benefits.** (10 U.S.C. § 1450)
9. **Veteran's Benefits.** (38 U.S.C. § 5301)
10. **Disability Benefits.** (I.C. § 11-604(1)(a))***
11. **Illness Benefits.** (I.C. § 11-604(1)(a))***
12. **Alimony, Support, Maintenance.** (I.C. § 11-604(1)(b))***
13. **Child Support Payments.** (I.C. § 11-604(1)(b))***
14. **Awards/Proceeds from Personal Bodily Injury.** (I.C. § 11-604(1)(c))***
15. **Awards/Proceeds from Bodily Injury or Wrongful Death Payable to Dependent.** (I.C. § 11-604(1)(c))***
16. **Life Insurance Proceeds payable to Spouse or Dependent.** (I.C. § 11-604(1)(d))***

PROPERTY

1. **Burial Plots.** (I.C. § 11-603(1))
2. **Business/Work Items.** Professional Books, Implements, Business Equipment, Tools of the Trade: (Total value cannot exceed \$2,500.) (I.C. § 11-605(3))
3. **Firearm.** Only 1 and the total value cannot exceed \$750. (I.C. § 11-605(8))
4. **Food and Water.** 12 month's supply and storage. (I.C. § 11-605(4))
5. **Health Aids.** (I.C. § 11-603(2))
6. **Homestead.** House, Manufactured Home, Mobile Home, and Related Structures. (I.C. § 55-1001)
7. **Household Items.** Furniture, Appliances, Family Heirlooms. (Total value cannot exceed \$7,500; value per-item cannot exceed \$750.) (I.C. § 11-605(1))
8. **Jewelry.** Total value cannot exceed \$1,000. (I.C. § 11-605(2))
9. **Police/Military Uniforms, Arms, Accouterments.** (I.C. § 11-605(6))
10. **Vehicle.** Only 1 and the total value cannot exceed \$7,000. (I.C. § 11-605(3))
11. **Miscellaneous (Tangible) Property.** Total value cannot exceed \$800. (I.C. § 11-605(10))
12. **Life Insurance Contracts.** Including interest, dividends, loan value, and cash surrender value. (I.C. § 11-605(9))
13. **Separate Real or Personal Property** owned at time of marriage or subsequently acquired and non-community rents and profits for separate debts incurred by spouse. (I.C. § 11-204)

***to the extent reasonably necessary for support.

INSTRUCTIONS TO DEBTORS AND THIRD PARTIES
How to claim exemption from garnishments and executions

You May Not Use A Claim Of Exemption Form To Challenge The Validity Of The Debt Or Judgment

1. You should have a reasonable belief that you are entitled to claim the wages, funds, benefits, or property that are exempt from garnishment and are claiming the exemption in good faith.
2. Deliver or mail the *Claim of Exemption* form to: (sheriff's address) _____

the sheriff that has taken your money, benefits and/or property **within fourteen (14) days of the mailing/service of these instructions**. If you mail the *Claim of Exemption*, it must be received by the sheriff within the fourteen (14) day period. For mailed documents, the 14-day period starts running from the postmark date. You can download a *Claim of Exemption* form at: <https://isc.idaho.gov/ircp-new> under **Appendix B** at the bottom of the page.
3. If two or more persons reside in your household, each person who owns an interest in the money, benefits and/or property should file a separate **Claim of Exemption**.
4. After receiving the *Claim of Exemption*, the sheriff must notify the judgment creditor within **one (1) business day**.
5. Once the judgment creditor is notified that you have filed a *Claim of Exemption*, the judgment creditor has **five (5) business days** to file a motion with the court challenging your *Claim of Exemption*.
6. If the judgment creditor **DOES NOT** file a motion challenging your *Claim of Exemption*, the sheriff will immediately return your money, benefits, and/or property.
7. If the judgment creditor **DOES** file a motion with the court challenging your *Claim of Exemption*, you will receive a copy of the motion and notice of a hearing. A hearing will be scheduled and held between five (5) and twelve (12) days after the motion was filed.
8. On the day of the hearing, you will need to bring whatever documents you have to support your *Claim of Exemption*. For example, if you claim that money deposited into your bank are exempt wages and/or benefits, you need to bring documents including but not limited to pay stubs and bank statements that show the source of the money.
9. If the judge decides that you filed the *Claim of Exemption* without reasonable basis and did not make the *Claim of Exemption* in good faith, you may be ordered to pay the court cost and attorney's fees.
10. SPECIAL RULES APPLY IF YOU OWE CHILD SUPPORT OR TAXES.
11. Third Party Claims: If you are not the Defendant and you own the wages, funds, benefits, or property being garnished or taken you can complete paragraph VI for Third Party Claims.

IN THE DISTRICT COURT OF THE _____ JUDICIAL OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF _____

_____ Plaintiff, vs. _____ Defendant.	Case No. _____ CLAIM OF EXEMPTION OR THIRD PARTY CLAIM
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INSTRUCTIONS:

1. Read the entire Claim of Exemption form after reading the enclosed Notice. Then put an X in the box or boxes that describe the money, benefits and/or property that you claim to be exempt. When necessary, provide additional information by using the blank lines.
2. Once complete, deliver or mail the Claim of Exemption form to the sheriff's department at (sheriff's address) _____.
You should do this as soon as possible, but it must be received by the sheriff within **fourteen (14) days of the service/ mailing of the enclosed notice because there are strict timelines or you could lose or make it more difficult for you to claim an exemption.** For mailed documents, the 14-day period starts running from the postmark date.
3. If the creditor objects to your claim of exemption, you will have to go to a court hearing to testify and provide proof that the money, benefits and/or property are exempt. For example, if you claim that money deposited in a bank account is exempt wages or benefits, you may have to provide bank statements or other proof, that shows the source of the money deposited.
4. If the judge decides that you filed the claim of exemption without reasonable basis and did not make the claim of exemption in good faith, you may be ordered to pay court costs and attorney fees.

I. **I (WE) CLAIM THE FOLLOWING MONEY, BENEFITS AND/OR PROPERTY EXEMPTIONS. (Each individual may claim the exemptions marked by an asterisk (*).)**

II. **THE MONEY AND/OR BENEFITS DEPOSITED INTO A FINANCIAL INSTITUTION ARE EXEMPT. (Mark all exemptions that apply):**

- ☐ Public Assistance (of any kind).
- ☐ Social Security and SSI Retirement and Disability Benefits.
- ☐ Workers Compensation.
- ☐ Unemployment Benefits.

- ☐ Employee Plan Retirement, Disability, Death or Medical Benefits.
- ☐ Retirement, Annuity or Pension Benefits.
- ☐ Medical Savings Account.
- ☐ Military or Veterans Benefits.
- ☐ Disability, Illness, and Medical Benefits to the extent reasonably necessary for support of myself and dependents. I claim \$_____ is exempt.*
- ☐ Child Support, Alimony, or Maintenance Payments to the extent reasonably necessary for support of myself and dependents. I claim \$_____ is exempt.*
- ☐ Bodily Injury or Wrongful Death Awards to the extent reasonably necessary for support of myself and dependents. I claim \$_____ is exempt.*
- ☐ Proceeds from Life Insurance payable on the death of insured to the extent reasonably necessary for support of myself and dependents. I claim \$_____ is exempt.*

III. WAGE GARNISHMENT EXEMPTIONS: (Check all that apply)

- ☐ a. My wages have not been paid by my employer. I claim \$1,500.00 of unpaid wages in a calendar year as exempt.
- ☐ b. I claim my wage exemption under federal or state law.
- ☐ c. My **wages** have been deposited into an account at a financial institution and:
 - ☐ My wages have already been garnished by my employer, **and/or**
 - ☐ I claim up to \$7,500 of reasonably identifiable exempt wages deposited into a financial institution as exempt.

SPECIAL RULES APPLY IF YOU OWE CHILD SUPPORT OR TAXES.

IV. IF YOUR BANK ACCOUNT IS BEING GARNISHED ANSWER THE FOLLOWING:

- ☐ Money in addition to the funds, benefits and wage exemptions claimed above that have been deposited in a financial institution are exempt:

Explain: _____

V. PROPERTY EXEMPTIONS: PLEASE REVIEW THE "PARTIAL LIST" OF EXEMPTIONS IN THE NOTICE FOR FURTHER INFORMATION

- ☐ Homestead

- ☐ Real or personal property owned by a married person at the time of marriage or subsequently acquired "Separate Property" and all non-community rents and profits for separate debts of spouse
- ☐ Burial Plots*
- ☐ Health Aids*
- ☐ Household furnishing, appliances, goods, apparel, books, animals, instruments* Describe: _____

- ☐ Business/Work Items* Describe: _____

- ☐ Jewelry* Describe: _____
- ☐ One Vehicle* Describe: _____
- ☐ One Firearm* Describe: _____
- ☐ Food and Water sufficient for use of 12 months
- ☐ Life Insurance Contracts*
- ☐ Other Miscellaneous Property* Describe: _____

VI. THIRD PARTY CLAIM

- ☐ I am not the Defendant and I own the wages, funds, benefits or property being garnished or taken. Explain: _____

Signature

Phone Number

Print Name

Address

Full Name of Party or Attorney Filing Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

Plaintiff,

vs.

Defendant.

Case No. _____

INTERROGATORIES TO GARNISHEE

You must answer these Interrogatories within five (5) days from the date served as required by I.C. § 11-719. If you fail to respond the creditor can request a judgment against you for the amount owed by the Defendant.

INSTRUCTIONS

- A. You are requested to provide all information known by you or available to you.
 - B. If you cannot answer any of the Interrogatories completely, provide whatever information you have.
 - C. Once completed and signed make a copy for yourself, and send the original to the person at the address listed above.
1. At the time of the service of the garnishment, had you in your possession, or under your control, any property, money or effects of the defendant? If so, state what property, how much, and of what value, and what money or effects.

ANSWER: _____

2. At the time of the service of the garnishment, did you owe the defendant any money, or do you owe him any now? If so, state how much, on what account, and when did it become due? If not due, when will it become due?

ANSWER: _____

3. Question: _____

ANSWER: _____

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Date: _____

Typed/printed

Signature