

EXPLANATORY NOTES

SMALL CLAIMS NOTICE OF EXECUTION (SJ-1103A)

The form “Small Claims Notice of Execution” enables a creditor under a small claims judgment to seize the income of a debtor. The notice of execution directs the employer to declare, withhold and remit the seizable portion of the debtor’s income to the clerk of the Small Claims Division of the Court of Québec.

NOTE: In small claims matters, creditors can only carry out seizure of the debtor’s income in the hands of a third person. For any other means of execution, a bailiff must be contacted.

For further information, as well as the contact information for courthouses in the province of Québec, consult the [list of courthouse](#) on the website of the ministère de la Justice.

TYPES OF FORMS

This form is available in dynamic PDF format, meaning the form can be downloaded from www.justice.gouv.qc.ca and completed directly on screen.

- Dynamic PDF:

After completing the form, you must print it on letter-sized paper, i.e. 8.5 inches by 11 inches (215.9 mm by 279.4 mm). Be sure to set your printer to this paper size.

- Paper:

If you complete the form by hand, please write legibly in block letters.

PROCEDURE

Once the form is completed, keep a copy for your files. You must then go to the courthouse in the district where the judgment was rendered to have the clerk sign the notice of execution. Subsequently, you must notify the notice to the debtor and the garnishee. Notification can be made by any appropriate method proving that the document was remitted to its recipient (for example: registered mail or bailiff).

Court costs are payable on filing your Small Claims Notice of Execution form. To find out what the costs are, refer to the website of ministère de la Justice, at www.justice.gouv.qc.ca or communicate with the clerk.

SMALL CLAIMS NOTICE OF EXECUTION

GENERAL INFORMATION

This form is used for a small claims seizure of income further to a judgment against the debtor.

It may also be used if you have to file an amended notice of execution, particularly to add another garnishee or another judgment in your favour against the same debtor.

► How to fill out this form

Please provide all the information requested in this notice of execution.

Do not hesitate to consult the clerk of the court for any questions concerning the information to be entered in the form.

The numbers of the explanatory notes correspond to the sections of the notice of execution with the same numbers.

FILE IDENTIFICATION

- 1** Enter the case record number and the name of the judicial district.
- 2** If you have other judgments to be executed against the debtor, enter the relevant record numbers.
- 3** If you wish to amend the notice of execution, enter the date of amendment.
- 4** If the purpose of the amendment is to add other records, enter the relevant record numbers.

IDENTIFICATION OF THE PARTIES

- 5** Enter the name of the seisor (the party asking for execution of the judgment) as indicated in the judgment, and the seisor's full address.
- 6** Enter the name of the debtor as indicated in the judgment to be executed and the debtor's full address.
- 7** Enter the name and full address of the garnishee (i.e. the debtor's employer). In the case of a notice of execution amended by adding garnishees, enter the name of the other garnishees and their addresses in full.

To add another seisor or garnishee, please attach an appendix on which you have entered all the information required in this section.

DESCRIPTION OF THE CONCLUSIONS OF THE JUDGMENT

- 8** Enter the record number of the judgment to be executed.
- 9** On every appropriate line, enter separately:
 - the date of the judgment to be executed;
 - the amount of the judgment (principal without interest or costs);
 - the amount of interest, the interest rate and the date from which interest is calculated, and check the appropriate box if the judgment provides for an additional indemnity;
 - the legal costs granted in the judgment;
 - the amount of interest owing on the legal costs and the date from which interest is calculated;
 - post-judgment costs (for example, the cost of filing a pleading, notification or service costs, and other costs incurred for the execution of the judgment);
 - the amount of interest owing on the post-judgment costs and the date from which interest is calculated;
 - the cost for filing the present notice of execution with the office of the Court;
 - the sums already paid by the debtor in payment of the debt.

- 10** Enter the total amount claimed after subtracting the sums already paid by the debtor.

To add information concerning another judgment to be executed, please attach an appendix on which you have entered all the information required in this section.

SEIZURE OF THE DEBTOR'S INCOME IN THE HANDS OF A THIRD PERSON

- 11** Enter the name and address of the courthouse where the judgment was rendered and the case record number.

AMENDMENT(S) TO THE NOTICE OF EXECUTION

- 12** Enter the date of amendment of the notice of execution.
- 13** Check the box(es) for your situation and enter the required information in the appropriate spaces.
- 14** Do not write in this section; it will be completed by the clerk.

**NOTICE OF EXECUTION DRAWN UP BY THE JUDGMENT CREDITOR
FOR THE RECOVERY OF SMALL CLAIMS
(articles 566 and 681 C.C.P.)**

SECTION I – IDENTIFICATION OF THE RECORD

1

Initial notice of execution

Filed with the office of the court in case record number: _____ - _____ - _____ - _____

In the district of _____

2

Other case record numbers concerned: _____

3

Amendment of the notice of execution (read Section VI)

Notice of execution amended on _____

4

Addition of other records concerned by the amendment of the notice of execution

Other case record numbers concerned: _____

SECTION II – IDENTIFICATION OF THE PARTIES

5

Seizor(s)

6

Debtor

7

Garnishee (Add contact information for the other garnishees, if applicable)

SECTION III – NOTICE TO THE DEBTOR

FORCED EXECUTION OF A JUDGMENT

You have not voluntarily executed the judgment rendered against you. The seizer is the creditor of the judgment and has decided to seize your income in the hands of third persons.

You can obtain release of seizure by paying the amount you were ordered to pay in the judgment, including the judgment execution costs.

You can oppose the seizure within **15 days** following notification of the notice of execution to the garnishee, in accordance with articles 735 and 736 C.C.P.

In the case of a seizure in the hands of third persons, you can also contest the declaration of the garnishee within **10 days**, in accordance with article 711 C.C.P.

SECTION IV – CONCLUSIONS OF THE JUDGMENT

(Complete this section for each case concerned, if applicable)

8 Judgment
Record number: ____ - ____ - _____ - ____

9 The seizer obtained a judgment against you on _____, which orders you to pay the following amounts:

- \$ _____ Amount of the judgment
- \$ _____ Interest at the rate of ____ % yearly, beginning on _____
 and, if applicable, the additional indemnity
- \$ _____ Legal costs
- \$ _____ Interest on the legal costs at the legal rate, beginning on _____
- \$ _____ Costs subsequent to the judgment
- \$ _____ Interest on subsequent costs
- \$ _____ Cost of this notice of execution
- \$ _____ This judgment was partially executed (enter the amount of the partial payment with the sign (-))

10 Total \$ _____ The professional fee and other expenses of the bailiff for the execution of this notice of execution will be added.

SECTION V – SEIZURE IN THE HANDS OF THIRD PERSONS OF THE DEBTOR’S INCOME

11 TO THE GARNISHEE, you are required to declare and to deposit with the court clerk, at the courthouse of _____, situated at _____, in record number ____ - ____ - _____ - ____ , the seizable portion of the debtor’s income.

You have **10 days** from notification of the notice of execution to make this declaration. In addition, you are required to notify your declaration to the seizer within the same time limit.

You must also disclose any other seizures of the debtor’s income made in your hands.

You may be ordered to pay the amount owed to the seizer if you fail to declare, withhold and remit the seizable portion of the debtor’s income or if you make a false declaration.

SECTION VI – AMENDMENT(S) TO THE NOTICE OF EXECUTION

(Complete this section each time the notice of execution is amended)
(Also complete sections I, II or IV to reflect the amendments made)

12 On _____, the notice of execution was amended for the following reason(s):

Select the appropriate phrase:

- The seizer has obtained another judgment against you in case record number ____ - ____ - _____ - ____ (read Sections I et IV).
- No additional execution measure is required.
- The following additional execution measures are required (read Section II):

14 At _____, on _____

Clerk / Deputy-Clerk

To obtain more information, please contact the court clerk.

GENERAL INFORMATION ON SEIZURE OF INCOME IN THE HANDS OF THIRD PERSONS

NOTE: This form was designed to be used in small claims matters. It may require adaptations to be used in other matters.

DECLARATION AND DEPOSIT

To declare and deposit the seizable portion of the debtor's income, the garnishee may use the form *Declaration by the Garnishee*. Within 10 days of notification of the notice of execution, the garnishee must notify his or her declaration to the creditor by any appropriate method proving that the document was remitted to its recipient (for example: registered mail, bailiff or receiving copy). Within the same time period, the garnishee must file the declaration with the court clerk or notify it to the clerk. The garnishee must also withhold the seizable portion of the debtor's income and remit it to the clerk by means of a cheque or postal or bank money order to the order of the Minister of Finance indicating the court's file number on the reverse.

FAILURE TO DECLARE

If the garnishee fails to declare, withhold or remit a sum of money or makes a false declaration, the garnishee may be ordered to pay the sum owing to the seizing creditor as if the garnishee were the debtor. However, the garnishee may, at any time, even post-judgment, obtain the authorization to declare or deposit on payment of the sums the garnishee should have withheld and deposited since notification of the notice of execution. In such a case, the garnishee is required to pay all costs resulting from the default.

DEBTOR'S INCOME

The calculation of the debtor's income must include all remuneration in money, kind or services the debtor receives for services rendered under a contract of employment, service, enterprise, or mandate with the exception of:

- employer contributions to a retirement, insurance or social security fund;
- the value of food and lodging supplied or paid for by the employer when the debtor travels for work purposes.

CALCULATION OF THE SEIZABLE PORTION OF INCOME

STEP 1: Calculate the debtor's monthly gross income.

STEP 2: Subtract the monthly exemption that applies to the debtor's situation.

Please consult the table of exemptions for calculation of the seizable portion of income published on the website of the ministère de la Justice at www.justice.gouv.qc.ca. The exemptions are indexed every year, on April 1.

STEP 3: Multiply the remainder by a seizure percentage of 30% and deposit the resulting amount with the clerk.

Support debtor

Under the *Act to facilitate the payment of support*, if support is withheld, seized or paid out of the debtor's income (i.e. directly withheld from his or her income and administered by the Minister of Revenue), the garnishee must apply a seizure percentage of 50%.

Calculation examples (based on exemptions updated to April 1, 2015)

Single person earning \$2000 a month:

$$\$2000 - \$1171.25 = \$828.75 \times 30\% = \$248.63 \text{ to be deposited every month}$$

Person with 2 dependants, earning \$2000 a month:

$$\$2000 - \$1874.03 = \$125.97 \times 30\% = \$37.79 \text{ to be deposited every month.}$$

PERIOD OF SEIZURE

The seizure remains binding for as long as the debtor remains in his or her employment and all claims filed by the creditors have not been paid. A written notice will be sent by the clerk when all claims have been paid, i.e. principal, interest and costs.

If the seizer is a creditor of support or if a claim regarding a support debt is filed in the record, the seizure remains binding until release is given.

District: _____

Locality: _____

File No.: ____ - ____ - _____ - ____

Plaintiff

v.

Defendant

and

Garnishee

**DECLARATION BY THE GARNISHEE
(Seizure of Income in the Hands of Third Persons)**

I, the undersigned, _____, garnishee (or person authorized to declare for the garnishee), hereby declare the following:

Affirmative Declaration

<input type="radio"/>	<p>At the date of the present declaration, the debtor is employed by the garnishee. The gross income owing to the debtor is \$ _____ payable every _____ . The seizable portion of the debtor's income is \$ _____ (see the general information on the reverse side of the notice of execution).</p> <p><input type="checkbox"/> The garnishee is disclosing another seizure of income against the debtor in Court file No. _____ Name of bailiff: _____ .</p> <p>Explanations / Additional information (if applicable): _____</p> <p>_____</p> <p><input type="checkbox"/> The debtor is the subject of a support deduction notice. The garnishee must disclose the income seizure to the Agence du revenu du Québec.</p>
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Negative Declaration

<input type="radio"/>	<p><input type="checkbox"/> At the date of the present declaration, the debtor is not employed by the garnishee. <input type="checkbox"/> The debtor left his/her employment or has no longer been employed by the garnishee since _____ .</p> <p>Explanations / Additional information (if applicable): _____</p> <p>_____</p> <p>_____</p>
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Renewed Declaration

<input type="radio"/>	<p>Since the last declaration made in this case:</p> <p>– the gross income owing to the debtor is \$ _____ payable every _____ . – the seizable portion of the income is \$ _____ (see the general information on the reverse side of the notice of execution).</p> <p>Explanations / Additional information (if applicable): _____</p> <p>_____</p>
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At _____, on _____

Signature of garnishee

ACKNOWLEDGMENT OF RECEIPT: I acknowledge having received a copy of the garnishee's first declaration.

At _____, on _____

Signature of debtor

EXPLANATORY NOTES

DECLARATION BY THE GARNISHEE (Seizure of Income in the Hands of Third Persons) (SJ-1103-1A)

The form “Declaration by the Garnishee (Seizure of Income in the Hands of Third Persons)” enables a garnishee to make:

- **An affirmative declaration:** The garnishee must indicate the debtor’s income and the seizable portion of that income. The garnishee must also disclose any other seizures made in the garnishee’s hands against the debtor.
- **A negative declaration:** If applicable, the garnishee indicates that the debtor is not, or is no longer, employed by the garnishee, and the date of the end of employment.
- **A renewed declaration:** The garnishee indicates changes in the debtor’s income and the seizable portion of that income.

A garnishee who fails to declare, withhold or remit a sum of money or who makes a false declaration may be ordered to pay the sum owing to the seizing creditor as if the garnishee were the debtor. However, the garnishee may at any time, even post-judgment, obtain the authorization to declare or deposit, on payment of the sums the garnishee should have withheld and deposited since notification of the notice of execution; in such a case, the garnishee is required to pay all costs resulting from the default.

NOTE: If the seizure is administered by a bailiff, you must contact the bailiff for instructions on completing the declaration and remitting any seized income to the bailiff.

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PROCEDURE

Within 10 days of service of the notice of execution, the garnishee must notify his or her declaration to the creditor (seizor) by any appropriate method proving that the document was remitted to its recipient (for example: registered mail, bailiff or receiving copy). In the same time period, the garnishee must file the declaration with the court clerk or notify it to the clerk. The garnishee must also withhold and remit to the clerk the seizable portion of the debtor’s income by means of a cheque or postal or bank money order to the order of the Minister of Finance indicating the court’s file number on the reverse.

Subsequently, the garnishee is required to immediately declare any substantial change in the debtor’s income, as well as the end of the contractual relation with the debtor (for example, resignation, dismissal, work stoppage, change in the seizable portion of the income).