

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4061a Interception of state tax refund or credit.

Sec. 4061a. (1) The state treasurer shall intercept a state tax refund or credit that is subject to a writ of garnishment served upon the state treasurer pursuant to section 4061. Upon intercepting a state tax refund or credit pursuant to a writ of garnishment, the state treasurer shall do all of the following:

(a) Calculate the amount available from the interception to satisfy all or part of the garnishment, and within 90 days after establishing other liability for which the state tax refund or credit may be applied under section 30a of Act No. 122 of the Public Acts of 1941, being section 205.30a of the Michigan Compiled Laws, do both of the following:

(i) File with the court a verified disclosure that identifies the intercepted amount, less any setoff, counterclaim, or other demand of the state against the defendant.

(ii) Serve upon the plaintiff and defendant a copy of the disclosure described in subparagraph (i).

(b) Unless notified by the court that objections to the writ of garnishment have been filed, deposit the amount available for the garnishment with either of the following pursuant to the terms of the writ not less than 28 days after filing the disclosure pursuant to subdivision (a):

(i) The clerk of the court.

(ii) The plaintiff's attorney of record in the garnishment action, or, if the plaintiff is not represented by counsel, the plaintiff or the plaintiff's designee.

(2) Objections to the writ of garnishment of a tax refund shall be filed with the court within 14 days after the date of service of the disclosure on the defendant.

(3) If an interception of a state tax refund or credit does not occur before October 31 of the year during which a writ of garnishment for a state tax refund or credit is to be processed, both of the following apply:

(a) The state treasurer is not required to provide to the defendant or file with the court a disclosure.

(b) The state treasurer is not required to provide to the plaintiff a disclosure unless the plaintiff provides the state treasurer with a written request for a disclosure between November 1 and December 31 of the tax year following the tax year for which a writ of garnishment of a state tax refund or credit was filed.

(4) A disclosure described in subsection (1) is not required to be made under oath.

(5) The state's liability to the plaintiff under a writ of garnishment issued under this section is limited to the amount of the tax refund or credit due to the defendant for the period the writ is in effect, less any setoff, counterclaim, or other demand of the state against the defendant. As used in this subsection, "state" includes the state treasurer.

(6) If all or a portion of an intercepted state tax refund or credit is deposited with the clerk of the court under subsection (1), the court shall convey the deposited amount to the plaintiff's attorney of record in the garnishment action or, if the plaintiff is not represented by counsel, to the plaintiff.

(7) Michigan court rules that do not conflict with this section or section 4061 govern a garnishment in which the state is a garnishee.

(8) As used in this section, "state treasurer" includes an employee designated by the state treasurer to act on his or her behalf.

History: Add. 1994, Act 346, Eff. Mar. 1, 1995.