6-30/200.00 Specific Exemptions

• 6-30/201.00 Aid

Prior to payment, all public assistance or similar aid provided by a charitable organization or fraternal benefit society is exempt without making a claim. After payment, the aid is exempt upon filing a claim. (CCP 704.170) A claim of a county against a debtor who has received public support limits exempt property. (WIC 17409)

• 6-30/202.00 Cause of Action

• • 6-30.202.10 Personal Injury

Until final and not appealable, a cause of action for personal injury is exempt without making a claim, although it is subject to a lien (CCP 708.410). After settlement or final judgment, the award is exempt upon filing a claim to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. The award is not exempt against a judgment creditor who is a health care provider whose claim is based on providing health care for the injury for which the award or settlement was made. If the award is payable periodically, the amount that may be applied to satisfaction of a money judgment is the same as may be withheld pursuant to an earnings withholding order. (CCP 704.140)

• • 6-30/202.20 Wrongful Death

Until final and not appealable a cause of action for wrongful death is exempt without making a claim although it is subject to a lien. (CCP 708.410). If the award arose out of the wrongful death of the judgment debtor's spouse or a person on whom the judgment debtor or the judgment debtor's spouse was dependent, the award after settlement or final judgment is exempt upon filing a claim to the extent reasonably necessary for support of the judgment debtor and the spouse and dependents of the judgment debtor. If an award meets the previous criteria, but is payable periodically, the amount that may be applied to satisfaction of a money judgment is the same as may be withheld pursuant to an earnings withholding order. (CCP 704.150)

• 6-30/203.00 Cemetery Plot

A family plot is exempt without making a claim. A plot for the judgment debtor and

the spouse of a judgment debtor is exempt. Land held for the purpose of sale or disposition as cemetery plots or otherwise is not exempt. (CCP 704.200)

Proceeds of sale of cemetery lands, whether unused lands or lands from which all remains have been removed, are not subject to enforcement of a money judgment. (HS 7925)

• 6-30/204.00 Direct Deposit Public Benefits and Social Security Deposit Accounts

Direct Deposit Public Benefits and Social Security Deposit Accounts are deposit accounts in which payments of public benefits or social security benefits are directly deposited by the government or its agent. These accounts are exempt without making a claim in the following amount:

- Where one depositor is the designated payee of public benefits-$1,750 (CCP 704.080(b)(1))
- Where one depositor is the designated payee of social security payments-$3,500 (CCP 704.080(b)(2))
- Where two or more depositors are designated payee of public benefits-$2,600
  - Unless such depositors are joint payees of payments which represent a benefit to only one of the depositors, in which case the exempt amount is $1,750 (CCP 704.080(b)(3))
- Where two or more depositors are designated payee of social security payments-$5,250
  - unless such depositors are joint payees of payments which represent a benefit to only one of the depositors, in which case the exempt amount is $3,500 (CCP 704.080(b)(4))

Any amount which exceeds the exemption is exempt to the extent it consists of public benefits payments. (CCP 704.050(c))

• 6-30/205.00 Earnings

• • 6-30/205.10 Child or Spousal Support Debt

A withholding order for support under an execution for alimony or child support does not reach all of the debtor's earnings. 50 percent of the debtor's earnings are automatically exempt if the debt is for child or spousal support. (CCP 706.052(a))

15 USC 1677 permits the states to have more stringent restrictions than are set forth in Federal legislation. As a consequence, the Federal restrictions pursuant

to 15 USC 1673(b) of the amounts that may be withheld from wages do not apply to a judgment for alimony or child support, and California law is controlling.

Although no claim of exemption may be filed for earnings withheld pursuant to a withholding order for support, upon motion of any interested party, the court shall make an equitable division of the judgment debtor's earnings that takes into account the needs of all the persons the judgment debtor is required to support and shall effectuate such division by an order determining the amount to be withheld from the judgment debtor's earnings pursuant to the withholding order for support. (CCP 706.052(b))

Such an order may not authorize an amount to be withheld which is in excess of that allowable by Federal law under 15 USC 1673. (CCP 706.052(c))

Attorney's fees and costs awarded in an action for dissolution of marriage are not in the same category as a judgment for support.

• • 6-30/205.20 All Other Debt

75 percent of the debtor's disposable wages are automatically exempt if the debt is not for child or spousal support. (CCP 706.050, 15 USC 1673)

• • 6-30/205.30 Exemption Claimed for Support of Debtor and Debtorâ€™s Family

The debtor may claim as exempt the portion of the debtor's earnings which is necessary for the support of the debtor or the debtor's family supported in whole or in part by the debtor unless the debt is incurred for personal services rendered by any employee or former employee of the debtor or is incurred by the debtor, or his or her spouse or family for the common necessaries of life. In determining whether the debtor's earnings are necessary for the use of the debtor's family, the circumstances of each case and the position of the family involved must be considered. It has been held that items of expense for recreation, music lessons and insurance for the debtor's wife and family were for necessaries. (Sanker v. Humborg, 48 CA 2d 205)

Monthly expenses expended on behalf of the debtor's minor daughter attending university have been held to be necessaries. (Diamond v. Bent 157 CA 2d Supp. 857) The term "common necessaries of life" has a different meaning than above. If the plaintiff's cause of action is based on an obligation incurred for "common

necessaries of life," only that portion of the debtor's earnings included in the automatic exemption is exempt.

Common necessaries of life as used in (rechaptered as CCP 706.051) means those things which are commonly required by persons for the sustenance of life regardless of their employment or status. It must be such an article that in the hands of anyone, it is to be regarded universally, or substantially so, as necessary to sustain life. (Los Angeles Finance v. Flores, 110 CA 2d Supp. 850)

• • 6-30/205.40 Earnings in Deposit Account

Earnings already received by the debtor may still be claimed as exempt earnings if they can be traced into deposit accounts or in the form of cash or its equivalent. (CCP 703.080) Earnings that have already been garnished for support and placed in a deposit account are totally exempt. If earnings have not been previously garnished, then 75 percent of the earnings in the account are exempt. This is not an automatic exemption and a claim must be filed. The procedures governing such a claim are not the procedures for claiming an exemption pursuant to an earnings withholding order, but rather the procedures for claiming an exemption for other property. (CCP 704.070)

• • 6-30/205.50 Seamen

The wages of a seaman on a fishing vessel are not subject to levy except for support. (46 USC 11109)

• 6-30/206.00 Education Benefits

Prior to payment, all financial aid for expenses while attending school provided to a student by an institution of higher education (20 USC 1141(a)) is exempt without making a claim. After payment, it is exempt upon filing a claim. (CCP 704.190)

• 6-30/207.00 Health Aids

Upon filing a claim, health aids reasonably necessary to enable the judgment debtor to work or sustain health, and prosthetic and orthopedic appliances, are exempt. (CCP 704.050)

• 6-30/208.00 Health Insurance and Disability Payments

Prior to payment, benefits from a disability or health insurance policy or program

are exempt without making a claim. After payment, the benefits are exempt upon filing a claim. The exemption is not operative against a judgment creditor who is a health care provider whose claim is the basis on which the benefits are paid or payable. (CCP 704.130)

• 6-30/209.00 Home Improvement Materials

Material that in good faith is about to be applied to the repair or improvement of the judgment debtor's principal residence, or the spouse's principal residence in the event the judgment debtor and spouse are living separate and apart, are exempt upon filing a claim to the extent the equity in the material does not exceed $3,500. (CCP 704.030)

• 6-30/210.00 Homestead

A "Homestead" means the principal dwelling in which the debtor or the spouse resided on the date the creditor's lien attached to the dwelling, and in which the debtor or the spouse resided continuously until the date of the court determination that the dwelling is a homestead. (CCP 704.710(3)(c))

Any proceeds received for a homestead remain exempt in the amount of the exemption for six months after receipt, unless such proceeds are applied to property other than a new homestead, in which case the proceeds are no longer exempt. (CCP 704.720)

The amount of the exemption is the greater of the median sale price of a single-family home, not to exceed $600,000, or $300,000. (CCP 704.730)

• 6-30/211.00 Jewelry, etc.

The exemption amount for jewelry, heirlooms and art is $8,725. (CCP 704.040)

• 6-30/212.00 Life Insurance Policies

Unmatured life insurance, endowment, and annuity policies are exempt without making a claim. However, loan values based on the policies are not.

Upon filing a claim, the aggregate loan value of such unmatured policies is exempt to the extent of $13,975. If the judgment debtor is married, each spouse is entitled to a separate exemption, and the exemptions may be combined, regardless of whether the policies belong to either or both spouses, or the spouse of the judgment debtor is also a judgment debtor under the judgment. Benefits received from matured life insurance, endowment, and annuity policies are only exempt upon filing a claim to the extent reasonably necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. (CCP 704.100)

• 6-30/213.00 Motor Vehicle

If the judgment debtor has only one motor vehicle and it is sold at an execution sale, the proceeds of the execution sale are exempt in the amount of three thousand three hundred twenty-five dollars ($7,500) without making a claim. (CCP 704.010(d)) The Notice of Sale shall reflect this automatic exemption and shall be factored as a minimum bid.

In order to determine if the judgment debtor has only one registered vehicle, a registration check must be made with the California Department of Motor Vehicles (DMV). Care should be made to include alias or married name of the debtor listed on the registration of the levied vehicle is also checked. Similarly, vehicles may be registered to the debtor at a prior address. The record search must be reasonable but need not be exhaustive. The results of the DMV query shall be placed in the case folder.

• 6-30/214.00 Prisoner Trust Account

The funds of a state, county, or city prisoner who is a judgment debtor, are exempt without filing a claim in the amount of $1,750 if such funds are held to the credit of the judgment debtor in an inmate's trust or similar account. If the judgment debtor is married, each spouse is entitled to a separate exemption, or the spouses may combine their exemptions. The exemption amount is $325 if the judgment is a restitution fine or order. (CCP 704.090)

• 6-30/215.00 Relocation Benefits

Prior to payment, relocation benefits for displacement from a dwelling to be paid by a public entity, quasi public entity, or a public utility, are exempt without making a claim. After payment, relocation benefits are exempt upon filing a claim. (CCP 704.180)

• 6-30/216.00 Retirement Benefits from Private Plan

Upon filing a claim, all amounts held, controlled, in the process of distribution, or paid from a private retirement plan are exempt. However, amounts held in self-employed retirement plans and individual retirement annuities or accounts provided for in the Internal Revenue Code of 1954, as amended, that exceed the maximum amounts exempt from federal income taxation under that code are not exempt. (CCP 704.115)

In a judgment for child or spousal support, the court may determine the extent of the exemption pursuant to CCP 703.070. If the amount sought to be applied to the judgment is payable periodically, the amount is subject to a wage assignment for support or any other applicable procedure, but the amount to be withheld shall not exceed the amount permitted on an earnings withholding order for support.

If a judgment other than for support, amounts in a self-employed retirement plan and individual retirement annuities or accounts provided for in the Internal Revenue Code are exempt only to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for support of the spouse and dependents of the judgment debtor. If the amount sought to be applied to the judgment is payable periodically, the amount to be withheld shall not exceed the amount that may be withheld from a like amount of earnings pursuant to an earnings withholding order.

• 6-30/217.00 Retirement Benefits from Public Entity

Prior to disbursement, public employee benefits are exempt without making a claim. After payment, all amounts received by a resident of this state as a public retirement benefit from the United States or a public entity or from a public retirement system are exempt upon the filing of a claim. Prior to payment, all such benefits, other than those due from the United States, are exempt without making a claim whether or not the judgment debtor be a resident of the state, unless the benefits are sought to be applied to the satisfaction of a resident of the state, unless the benefits are sought to be applied to the satisfaction of a judgment for child or spousal support.

In a judgment for child or spousal support, the court may determine the extent of the exemption pursuant to CCP 703.070. If the amount sought to be applied is payable periodically, the amount is subject to an earnings assignment order for support or any other applicable procedure, but the amount to be withheld shall not exceed the amount permitted on an earnings withholding order for support.

(CCP 704.110)

• 6-30/218.00 Tools and Equipment of Trade

Upon making a claim, tools, implements, instruments, materials, uniforms, furnishings, books, equipment, one commercial motor vehicle, one vessel, and other personal property are exempt to the extent that the aggregate equity therein does not exceed:

- Judgment debtor - $8,725 (CCP 704.060(a)(1))
- Spouse of the judgment debtor - $8,725 (CCP 704.060(a)(2))
- Judgment debtor and spouse in the same trade - $17,450 (CCP 704.060(a)(3))
- A motor vehicle is not exempt unless 6-30/213.00 Motor Vehicle applies (CCP 704.060(c))
- A commercial motor vehicle for the judgment debtor - $4,850 (CCP 704.060(d)(1))
- A commercial motor vehicle if the debtor and the spouse in the same trade - $9,700 (CCP 704.060(d)(2))

If the property is sold at an execution sale, or if it has been lost, damaged, or destroyed, the proceeds of the execution sale or of insurance or other indemnification are exempt for a period of 90 days after the proceeds are actually received by the judgment debtor or the judgment debtor's spouse. (CCP 704.060(b))

• 6-30/219.00 Trust Funds

Trust funds held for the benefit of someone other than the defendant/judgment debtor are exempt without making a claim. (FIN 12300.3)

• 6-30/220.00 Unemployment Benefits

Contributions by workers and employers payable to the Unemployment Compensation Disability Fund or the Unemployment Fund are exempt without making a claim. (CCP 704.120(a))

Prior to payment, amounts held for payment to the judgment debtor which represent the following benefits are exempt without making a claim. (CCP 704.120(b)(1-5) After payment, the amounts are exempt upon filing a claim. (CCP 704.120(c)) The creditor may seek child support payments for unemployment benefits through the local child support agency. (CCP 704.120(d))

In a judgment for child support, the court may determine the amount of the exemption pursuant to CCP 703.070. If the amount sought to be applied to the judgment is payable periodically, the amount payable is subject to a wage assignment for support or to any other applicable enforcement procedure, but the amount to be withheld shall be 25 percent of the amount of each periodic payment, or such lower amount specified in writing by the judgment creditor or court order, rounded down to the nearest whole dollar. (CCP 704.120(e))

• 6-30/221.00 Vacation Credits of Public Employee

Prior to payment, all vacation credits of a public employee are exempt without making a claim. Amounts paid periodically or as a lump sum representing vacation credits are subject to any earnings withholding order or any earnings assignment order for support and are exempt to the same extent as earnings of a judgment debtor. (CCP 704.113)

• 6-30/222.00 Workersâ€™ Compensation Claim or Award

Except as provided in LAB 4900 et seq., prior to payment a workers' compensation claim or award is exempt without making a claim. After payment, the award is exempt except where sought to be applied to the satisfaction of a judgment for support.

In a judgment for support, the judgment creditor may seek to apply the temporary disability benefit payments to satisfy the support judgment by an assignment of earnings for support or any other applicable enforcement procedure. The amount to be withheld shall be 25 percent of the amount of each periodic payment or any lower amount specified in writing by the judgment creditor or court order, rounded down to the nearest dollar.

(CCP 704.160)