



Voluntary deposit

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- » When bills pile up and there is no money to pay them, creditors lose patience and bankruptcy and seizure become distinct possibilities. You are obsessed by a single question: how to pay your debts and find a solution to your problems. One way to deal with the situation is to register with the Service des dépôts volontaires (voluntary deposit service) at the nearest courthouse.



The staff at the voluntary deposit service will explain how voluntary deposit works, and the obligations it creates for you and your creditors. They can help you complete the necessary forms. The service is available to salary and wage earners and also to self-employed persons.

The steps in the voluntary deposit process are clearly explained in this document. Some of the information found here will also be of interest to creditors.

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» Definitions

Seizure

Court order under which the property or income of a person is seized to be used to pay the person's creditors.

Writ of seizure

Official document stating the date and amount of a court judgment. The writ of seizure is issued by the clerk of the court and allows a judgment to be executed against the property of a debtor.

» Protection offered by the voluntary deposit system

Voluntary deposit is a measure contained in the Code of Civil Procedure that allows you to repay your debts by depositing with the Court a portion of your earnings determined by law. The amount deposited is then distributed to creditors proportionally to their claims. By opting for voluntary deposit, you avoid having to declare personal bankruptcy. Another feature to consider is the fact that you are protected from seizure of your salary or wages, or your earned income if you are self-employed. This protection extends to the furniture in your main residence used by the family as basic necessities (refrigerator, stove, table, chairs, beds, etc.). People who use the voluntary deposit system pay only 5% interest on their debts, regardless of who the creditors are.

However, the protection against seizure afforded by voluntary deposit does not protect immovable property or personal motor vehicles, and does not protect against the dealer from whom you purchased home furniture if you are still making payments on it. And because the system is unique to Québec, you will no longer be protected against seizure if you later move to another province.

» Registration with the Service des dépôts volontaires

To use this service, you must register at the office of the Court of Québec (Civil Division) in the [courthouse](#) serving [your residence or place of work](#), where they will be asked to make a sworn declaration.

If you are a salary or wage earner, the declaration must state

- your full name,
- your home address,
- the name and address of your employer (if you receive employment insurance benefits, the address of your most recent employer),
- the amount of your salary or wages, and your pay dates,
- the number of your dependents, and
- the name and address of each of your creditors and the nature and amount of each debt.

If you are self-employed, the declaration must state

- your full name,
- your home address,
- your work address,
- your work income for the three months prior to your declaration,
- your work-related expenses for the three months prior to your declaration,
- the number of your dependents, and
- the name and address of each of your creditors and the nature and amount of each debt.

Whether you are a salary or wage earner or a self-employed person, you must make a new sworn declaration if

- you move,
- you change jobs,
- your conditions of employment change,
- you stop working,
- you start working again, or
- there is a change in your family responsibilities.

In each case, a new declaration must be made within ten days of the change.

If you are self-employed, you must make a new sworn declaration with the office of the Court of Québec (Civil Division) every three months, stating your work income and work-related expenses for the previous three months.

Any interested party may contest a debtor's declaration within 30 days after being informed of it. The contestation is made before the court where the declaration was made and must be served on the debtor and the clerk of the court.

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» Deposits

The amount to be deposited is the seizable portion of your salary, wages or income. It is calculated for salary and wage earners on gross wages or salary, before deductions, plus all other employment income and benefits or gratuities such as tips, bonuses or free housing. The seizable portion for self-employed persons is calculated on work income less work-related expenses.

» Calculating the seizable portion

After determining gross salary or wages, or income, deduct \$120 if you have no dependents, \$180 if you have one or two dependents, and \$30 for each additional dependent beginning with the third. The seizable portion is 30% of the amount remaining, unless one of your debts is related to support, in which case 50% of your gross salary, wages or income before deductions is seizable. Voluntary deposit is not, however, available to persons who have unpaid support debts and are subject to the Act respecting [the payment of support¹](#) (collected by the Ministère du Revenu).

The following table shows the exemptions to which you are entitled based on the number of your dependents and your pay frequency. If you are self-employed, only the last column indicating the exemption amount for persons paid on a monthly basis applies to you.

» Calculating exemptions

Number of dependents	If you are paid weekly	If you are paid every two weeks	If you are paid twice a month	If you are paid monthly
None	\$120.00	\$240.00	\$260.00	\$519.99
1	\$180.00	\$360.00	\$390.00	\$780.00
2	\$180.00	\$360.00	\$390.00	\$780.00
3	\$210.00	\$420.00	\$455.00	\$909.99
4	\$240.00	\$480.00	\$519.99	\$1040.00
5	\$270.00	\$540.00	\$585.00	\$1170.00
6	\$300.00	\$600.00	\$650.00	\$1299.99
7	\$330.00	\$660.00	\$714.99	\$1429.98
8	\$360.00	\$720.00	\$780.00	\$1560.00

9	\$390.00	\$780.00	\$845.00	\$1689.99
10	\$420.00	\$840.00	\$909.99	\$1819.98
11	\$450.00	\$900.00	\$975.00	\$1950.00
12	\$480.00	\$960.00	\$1040.00	\$2079.99

The following are two examples of how the seizable portion of salary or wages is calculated.

<i>Jenelle Ramsay earns a salary of \$500 a week and has four dependents.</i>	
Gross salary (\$500 per week) =	\$500.00
less exemptions to which she is entitled \$180 + \$30 + \$30	- \$240.00
leaving a difference of	\$260.00
The seizable portion is 30% of \$260 =	\$78.00
Philip Thomson earns wages equal to the salary earned by Jenelle Ramsay and like Jenelle, has four dependents. He is also the janitor in the building where he lives and since he is not paid for doing this, he is not charged rent (\$400 a month) or electricity (\$30 a month). The seizable portion of his wages is calculated as follows.	
Gross wages (\$500 per week) =	\$500.00
plus rent (\$400 per month x 12 ÷ 52 = \$92.30 per week)	+ \$92.30
and electricity (\$30 per month ÷ 4 = \$6.92 per week)	+ \$6.92
for total gross weekly wages of	\$599.22
less exemptions to which he is entitled \$180 + 30 + \$30 =	- \$240.00
leaving a difference of	\$359.22
The seizable portion is 30% of \$359,22 =	\$107.77

These examples apply to people paid by the week, but can still be used in calculating

the seizable portion of the salary or wages of people paid every two weeks, once a month or twice a month.



»» **When are deposits made?**

The deposits of salary and wage earners, whether made in person or by mail, must reach the Service des dépôts volontaires within five days after their payday. Before mailing a deposit, the debtor must make sure his or her name and file number appear on the postal money order, bank draft or certified cheque, which must be made out to the order of the Minister of Finance.

Self-employed persons make their deposits monthly.

»» **Can deposits be suspended or reduced?**

Debtors, whether wage-earners or self-employed, cannot be late in or suspend making a deposit of the seizable portion of their salary, wages or income, or reduce the amount. If a debtor's conditions of employment change, a new declaration must be made.

Failure to make regular deposits will entail a risk of seizure of salary, wages, income or furniture. If a creditor makes a formal demand for payment of an outstanding amount and no action is taken by the debtor within 30 days after receiving the demand letter, seizure becomes an option for the creditor. The protection afforded by the voluntary deposit system is maintained only if the debtor complies with all the conditions in the applicable legislation.

»» **Debtor-creditor relations**

The amounts deposited will be apportioned among the creditors on the list given to the Service des dépôts volontaires by the debtor. Immediately after receiving the debtor's sworn declaration, the clerk of the court mails a notice to each creditor on the list, without cost to the debtor. This is also done whenever new creditors are added to the list.

The notice shows, for each creditor, the amount the debtor has indicated as owing. In the case of a disputed amount, the creditor must file a claim to have the amount rectified within 30 days after receiving the notice, using the following procedure ([Voluntary Deposit](#) form): the creditor first sends a copy of the claim to the debtor by registered or certified mail, then forwards it with all supporting documents to the Service des dépôts volontaires along with the confirmation of delivery to the debtor issued by Canada Post. A creditor who does not act within 30 days will be entitled only to an amount proportional to the amount indicated in the debtor's declaration. No adjustment can be made until the Service receives the creditor's claim.

If the amount indicated by the debtor as owing is correct, the creditor will receive the proper payment distribution without having to file a claim.

Failure by a debtor to declare an amount owed to a creditor will not prevent the creditor from receiving what would normally be payable. The procedure to follow in such a case is similar to the preceding one. The creditor first sends a copy of a sworn claim stating the nature and amount of the debt to the debtor by registered or certified mail, and then forwards the claim and all supporting documents to the Service des dépôts volontaires along with the confirmation of delivery to the debtor issued by Canada Post.

A debtor who does not agree with the amount claimed by the creditor may contest the claim using the remedies available under the law.

Deposits are credited to the debtor's account, and a distribution is made to the creditors at least every three months, except for support creditors who are paid at least once a month.

Each creditor receives a share proportional to the amount of the claim and the total amount of the deposits. If all debts total \$1,000 for instance, a creditor to whom the debtor owes \$100 will receive 10% of the deposits. In other words, the amounts are apportioned pro rata to the size of each claim except if one of the creditors is owed support, in which case the distribution will be made on a different basis.

» The debtor's file

A debtor's file is public. Anyone who wants to verify that deposits are being made regularly may consult the file on request to the clerk of the Service des dépôts volontaires.

Debtors can close their file

- by making deposits until all debts registered with the Service des dépôts volontaires have been paid;
- by paying creditors directly and asking each of them to provide a discharge which the debtor then forwards to the Service des dépôts volontaires; or
- by forgoing the benefits of the voluntary deposit system and withdrawing the initial application.

If you decide to stop making deposits and pay your debts according to an arrangement worked out with each of your creditors, you will no longer be protected against seizure.

Assistance is provided by the Service des dépôts volontaires free of charge. If no deposits or new declarations are made within a twelve-month period, the clerk will send a notice giving you 30 days to state whether or not you intend to continue using the voluntary deposit system. The clerk will immediately close your file and inform your creditors if you do not reply to the notice within the required time, and you will no longer be protected by the system.

» Writ of seizure

A debtor who is served with a writ of seizure while registered with the Service des dépôts volontaires should contact the Service immediately so that the appropriate steps to halt the seizure can be taken. Any delay could aggravate the situation.

1. No debtor of support subject to the [Act to facilitate the payment of support](#) ⁽¹⁾ (R.S.Q., chapter P-2.2) may avail himself of this subsection, except if he already has availed himself of the provisions of this subsection by the time he becomes subject to the said Act. ([Code of Civil Procedure](#) ⁽²⁾, art. 659.0.1) [Masculine includes feminine].

» For more information

The different types of seizures:

- [Seizure](#)

The addresses and telephone numbers of Québec courthouses:

- [Courthouses](#)

The judicial district a municipality is located in:

- [Search for a judicial district](#)

Laws relating to voluntary deposit:

- [Code of Civil Procedure](#) ⁽¹⁾ (arts. 652 to 659)
- [Act to facilitate the payment of support](#) ⁽²⁾

Forms that relate to voluntary deposit:

- [Voluntary Deposit](#) (SJ-224A)
- [Garnishment](#) (Garnishment of wages) (SJ-255A)

The content of this document is strictly informative and has no legal value.

If you find some of the information difficult to understand, do not hesitate to [contact us](#).
Please note, however, that we cannot interpret the information to apply it to a specific situation.



Latest update: April 24, 2007

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Form

» Voluntary Deposit (SJ-224A)

Form to have your name added to the list of persons who will share the amounts remitted by the debtor to the distribution centre.

Version: May 2003

Type of File: ► **DYNAMIC PDF**

[Adobe Reader](#) 7 required

File Size: 596 Kb

[Download](#)

For more information

[Tariff of Court Costs](#)

[Voluntary Deposit](#)

[Other forms](#)

To obtain a print copy of the form or for further information, please contact the clerk of the court at the [courthouse](#) in your area.

Latest update: May 2, 2006

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Please note: The personnel at the Service de renseignements of the Ministère de la Justice can help you understand the general rules for applying Québec legislation. They cannot, however, interpret these rules to respond to a specific case or situation.

When contacting us by mail or e-mail, please indicate your address and telephone number so that we can contact you when necessary.

Latest update: February 20, 2007

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