



VOLUNTARY DEPOSIT

If you are having trouble paying your bills and your creditors are losing patience, voluntary deposit may be an interesting solution for you. It may allow you to avoid bankruptcy.

Voluntary deposit is dealt with in articles 664 and following of the *Code of Civil Procedure of Québec*.¹ It is a means of voluntary execution by which a debtor undertakes to regularly pay the seizable portion of his income to the office of the Court of Québec. The money is then distributed among his creditors.

In order to be eligible, your income must be greater than the portion deemed unseizable by law.² The courts have recently ruled that those receiving social assistance cannot avail themselves of voluntary deposit, because their benefits are unseizable.

The amount you have to pay is generally equal to one third of your seizable income (such as your salary, your retirement benefits, your rental income, the dividends or interest you receive, etc.). This calculation takes into account your family responsibilities and will therefore vary from one person to another. It is important to understand that you cannot pay less than the amount calculated in this manner.

Voluntary deposit offer a number of advantages. As long as you make your payments, your creditors cannot seize your assets or sue you. Your property and salary are therefrom shielded from seizure.³ In addition, the interest rate applicable to your debts is reduced to the lesser of the legal rate and the agreed upon rate.⁴ The fact that you no longer have to manage payments to your creditors is another major advantage.

However, voluntary deposit does have certain limits. For example, it will not shield you from having your immovable property seized, nor will it reduce your debts. Moreover, it has a negative impact on your credit score.

For some debtors, a consumer proposal may be a better solution. Don't hesitate to consult a trustee⁵ in order to determine which option is best for you.

To register for voluntary deposit, you must fill out a declaration, which is deemed sworn, regarding your financial and family situation. You must be honest and accurate when filling out this document. One of your creditors or any interested party can contest your declaration if it is inaccurate.⁶

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* The information set out in
this document is not a legal
interpretation.

The masculine is used to
designate persons solely in order
to simplify the text.

¹ Code of Civil Procedure of Québec, CQLR c C-25.01, hereinafter the "CCP".

² Articles 694 and following of the CCP.

³ Article 665 of the CCP.

⁴ Articles 668 and 774 of the CCP.

⁵ Site of the Office of the Superintendent of Bankruptcy: <https://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br02049.html>

⁶ Article 667 of the CCP.



VOLUNTARY DEPOSIT (CONTINUED)

The form is available on-line at:

<https://www.justice.gouv.qc.ca/en/documentation-center/forms-and-models/programs-and-services/sj-1086a>

You can print it out and file it with the office of the court at the courthouse in your judicial district.⁷ There are no fees for participating in a voluntary deposit.

You must file a declaration each year or as soon as your situation changes. This is in order to ensure that the amount you are paying corresponds to what the law requires you to pay. Thus, your payments to the office of the court may increase or decrease based on fluctuations in your income and changes in your family situation.

For more information, consult the website of the Ministère de la Justice du Québec at:

<https://www.justice.gouv.qc.ca/en/your-money-and-your-posessions/voluntary-deposit>

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⁷ For find the judicial district where your home is located, consult the website of Services Québec at:
<http://www4.gouv.qc.ca/FR/Portail/Citoyens/Evenements/consommateur-renseignement-plainte/Pages/inscrire-depot-volontaire.aspx>