

[LETTER TO SHERIFF OFFICERS]

Dear Sirs

**Wrongful arrestment of [tax credits and/or benefits] –
[client's name and account details]**

I act on behalf of the above noted client and refer to your recent arrestment of funds in my client's account number [XXXXXXXXXX].

I enclose a copy of my client's bank statement which confirms that the funds in said account derive from [tax credits, paid to my client by HM Inland Revenue, and/or child benefit paid by DWP, and/or child maintenance from the CSA, and/or social security benefits - income support, Jobseeker's Allowance, Incapacity Benefit, Disability Living Allowance, Attendance Allowance etc., - paid by DWP].

Both the Scottish Law Commission and Scottish Executive concede that social security benefits are exempt from arrestment in terms of section 187 of the Social Security Administration Act 1992 (see *Enforcement of Civil Obligations in Scotland*, Scottish Executive report, at paragraph 5.245). Section 45 of the Tax Credits Act 2002 is an identical provision to the said section 187 of the 1992 Act.

It is therefore trite law that tax credits and other such maintenance or social security benefits are exempt from arrestment. The case of **Woods v Royal Bank of Scotland** 1913 SLT 1 Reports 499 is authority for the proposition that where exempt monies are paid into a bank account, those monies remain exempt from arrestment insofar as such monies can be clearly identified within an account.

As noted, I enclose a copy of my client's account statement which clearly identifies [X amount of tax credits and/or social security benefits].

I would respectfully submit that any refusal to consent to the release the arrested sum of X [amount] from my client's account will constitute wrongful diligence. Please advise in writing as a matter of urgency whether you will instruct and authorise [X Bank] to release said sum today.

If you fail to do so I will instruct an action for wrongful diligence and payment to be raised, and will also report this matter to the Sheriff Principal in terms of the Debtors (Scotland) Act 1987.

I look forward to your urgent response.

Without prejudice.

Yours faithfully