

How long can debt be collected in Manitoba?

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If you are trying to collect a debt from a person or business – or if you owe a debt yourself – it's important to understand how long you have to take legal action to collect it, or when the debt may no longer be enforceable.

In Manitoba, *The Limitations Act* (the “Act”) provides a general limitation period of two years for most civil claims, including debt collection. This means the creditor (the individual or entity to whom the debt is owed) has a two-year period from the date they became aware, or should have become aware, of the non-payment to pursue collection of the debt through legal proceedings. This is known as the date of discovery and typically begins on the date the debt became due or the date the debtor (the individual or entity who owes the debt) missed a payment, whichever is earlier. Either way, the debtor must have known that a debt was due and that a legal claim could be made to recover it.

However, the limitation period is reset if the following occurs:

1. The debtor acknowledges the debt exists before the limitation period expires. To acknowledge the debt exists, it must be in writing and signed by the debtor or the debtor's agent; or
2. The debtor makes a partial payment of the debt.

For example, if an invoice is due on March 1, 2023, and the customer doesn't pay, the limitation period likely begins on March 1, 2023, and ends March 1, 2025. If the debtor makes a partial payment on June 1, 2024, the limitation period resets and ends on June 1, 2026.

Secured Debt vs Unsecured Debt

In general, there are two different kinds of debts – secured debt and unsecured debt. Secured debts are loans where the creditor has a legal interest (security) in an asset. For example, a mortgage is a secured debt because the loan is secured by the property. Vehicle loans are a common example of a secured debt. The two-year limitation period still applies to secured debts, but the method on how to collect the debt differs, and secured lenders can often collect their debt by repossessing the asset, or by forcing its sale.

On the other hand, unsecured debts are debts that are not backed by assets. Examples include credit cards, lines of credits, personal loans, and unpaid accounts. If a person has an unpaid account for services rendered, the creditor has two years to initiate legal proceedings to collect the debt. If it is uncertain whether the limitation period has expired, the creditor has the burden of proving that a proceeding has been commenced within the two-year limitation period.

No Limitation Period

There are certain debts that are not time-barred. These include debts with judgments already obtained, debts where a lawsuit was initiated prior to the limitation period expiring, student loan debts, and government-related debts such as taxes, fines, etc.

For example, if one fails to pay property taxes, the City or Town is not subject to a limitation period when collecting that debt.

Debt still exists

It is important to note that although the two-year limitation period has passed and the debt is now statute-barred, the debt still exists and creditors can still ask for payment, but legal proceedings may not be allowed. If the debtor makes a payment or acknowledges the debt in writing, the two-year limitation period to file a lawsuit is reset. If you are uncertain whether the limitation period to collect a debt has expired, consult a lawyer for clarification.

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