



RETURNED CHECK AND DEMAND FOR PAYMENT LETTERS & GUIDE

Included:

Overview

Dos and Don'ts Checklist

Notice of Returned Check Letter Instructions

Sample Notice of Returned Check Letter

Sample Demand for Payment Letter

1. Overview

Cash transactions are rare in the modern marketplace. More commonly, businesses must accept and rely on a customer's promise to pay in the future, a promise that may come in the form of a credit card or a personal check. Occasionally, through oversight or mismanagement, these deferred payments are not completed. If a customer bounces a check, the business receiving it not only doesn't get paid the first time, but is forced to pursue the customer and seek payment again. This is an expensive cycle, both in terms of collection costs and in availability of funds. According to some reports, American retailers may lose about \$15 billion dollars a year because of bad checks.

Some believe that the best approach for collecting deficient payments is aggressive, dogged, threatening correspondence. Although this method does have its place, in many circumstances it will further alienate you from your customer, erase the possibility of future business, and perhaps make the payment tug-of-war personal. A better strategy is to weigh your options carefully, prepare well thought-out communications, keep accurate records, and be flexible.

The letters included in this packet are constructed to help you get what is rightfully yours. Their tone is designed to be both professional and firm. In the end, you know your business and your customers better than anyone else: you may choose to alter the correspondence to best suit your business needs.

2. Dos & Don'ts Checklist

- Generally, it is best to send a polite notice of reminder first, because chances are a bounced check was a simple mistake. A nasty notice may get you paid, but you can kiss any return business goodbye.
- Many states place limits on fees that can be charged on a returned check. These fees are sometimes called "bounced-check" or "nonsufficient funds" fees. Review your state maximums before making any requests for payment.
- If a customer just won't pay, don't be afraid to contact a collection agency or lawyer. Collection agencies may work for a fee or may take a percentage of the recovered money.
- If the matter ends up in court, the nature of your recovery will vary from state to state. However, in many jurisdictions, this can include attorney's fees, court costs, interest, and up to three times the amount of the original check. In some instances, criminal penalties may also be levied.

3. Notice of Returned Check/Demand for Payment Instructions

- There are two forms enclosed, but only one is strictly necessary for notice purposes. You may prefer to send one letter and, after a couple of weeks, send the other as a reminder and final warning.
- You can delete any reference to service charges if you do not want to collect a returned check fee. However, if you intend to enter a number greater than zero, review your state's fee limitations. Maximums vary from state to state, but are usually between \$15 and \$50.
- Provide an address to which payment can be sent or hand-delivered. The easier it is for your customer to contact you, the more likely it is that you will get paid.
- Write in a deadline by which you must receive payment. Generally, a week or two should provide sufficient time for your customer to submit a replacement check.
- Before mailing any letters, contact the bank that issued the check. Verify that there are still insufficient funds in the account. An overdraft may have been unintentional, and the customer may already have remedied the situation.
- Consider sending your notice by registered mail. Although not strictly required, it will provide a record of your actions if court action later becomes necessary.
- If the deadline you established has passed, you can elect either to send a second letter or to pursue alternative means of retrieving your money (e.g., collection agencies or attorneys).

DISCLAIMER

LegalZoom is not a law firm. The information contained in the packet is general legal information and should not be construed as legal advice to be applied to any specific factual situation. The use of the materials in this packet does not create or constitute an attorney-client relationship between the user of this form and LegalZoom, its employees or any other person associated with LegalZoom. Because the law differs in each legal jurisdiction and may be interpreted or applied differently depending on your location or situation, you should not rely upon the materials provided in this packet without first consulting an attorney with respect to your specific situation.

The materials in this packet are provided "As-Is," without warranty or condition of any kind whatsoever. LegalZoom does not warrant the materials' quality, accuracy, timeliness, completeness, merchantability or fitness for use or purpose. To the maximum extent provided by law, LegalZoom, its agents and officers shall not be liable for any damages whatsoever (including compensatory, special, direct, incidental, indirect, consequential, punitive or any other damages) arising out of the use or the inability to use the materials provided in this packet.

Form Sample

SAMPLE 1 Notice of Returned Check

[Your Street Address]
[City, State, and Zip]

[Insert Date]

[Recipient's Name]
[Recipient's Company, if applicable]
[Recipient's Address]
[Recipient's City, State, and Zip]

RE: Notice of Returned Check

Dear _____:

We appreciate your business. However, your check made payable to [Company Name] (Number _____, dated _____ [month, day], 20__ [year]) in the amount of _____ (\$ _____) has been returned to us **due to insufficient funds**. We have verified with your bank that the current balance in your account does not fund the check. Accordingly, we ask that you mail _____ to us with a check [plus an additional service charge of _____].