

Filing and IRS Bankruptcy Basics

In its original sense, bankruptcy already has a negative implication and this negativity is increased with the recent changes in the laws pertaining to it. For some people, unfortunately, this becomes their only alternative. Hence, it is important that we have a good grasp on what the concept really is, what the filing requirements and guidelines are and what the process is. The necessity to consult a Tampa tax lawyer should not be missed as his services is very important in bankruptcy filings.

Bankruptcy is a state when a person or business no longer has the capacity to settle debts. When applied to individuals, three types of bankruptcy surface:

- *Chapter 7 debtors, mostly individuals or couples, are given the time to liquidate their assets to settle their debts and given permission to handle sufficient funds to help them reclaim their balance in the financial world.
- *Chapter 12 especially formulated for family farmers and fishermen
- *Chapter 13 or debt reorganization, - usually granted to those who show the ability to pay off their debts in a period of three to five years.

Business entities can make use of Chapters 7, 11 or 15. In the first chapter, businesses are closed as a result of bankruptcy. The 2nd option allows businesses to stay in operation while re-organizing their debts. Chapter 15 specializes on foreign debt management. Again, the importance of consulting a Tampa tax lawyer should not be taken for granted.

Bankruptcy relief covers, among others, credit card debt, hospitalization expenses and unsecured loans. Child or spousal support and some tax debts, on the other hand, cannot form part of bankruptcy relief.

What are the filing requirements? Again, this is a field where a Tampa tax lawyer can present invaluable answers. The bankruptcy provisions were reworded in 2005, making the method more complex and tough for debtors. Written below are some rules and regulations:

- *Copious amounts of documentations regarding income and expenditures are necessary for filing. Your Tampa tax lawyer can help you determine which forms you should submit and help you prepare them.
- *Debt counseling from accredited counseling institutions is required six months before filing.
- *You are supposed to meet income requisites, which should be along your state's median income. Incidentally, this varies from state to state.

There are two methods in examining if you qualify for Chapter 7:

- a. Turn to the US Trustee Program of the Department of Justice

b. Seek advice from a qualified Tampa tax lawyer

Now, the ultimate question is on how to file for bankruptcy. Yes, you can do it on your own but the fact that this is a legal process implores for the services of a Tampa tax lawyer. Then, after deciding as to which clause you will file under, whether Chapter 7 or 13, you can now file your claim in any bankruptcy court. A trustee, responsible for making sure you have all the relevant data, is then assigned to you. You will also be compelled to inform your creditors so they will stop in their attempts of collecting payment from you. As your bankruptcy claim is being deliberated, you may want to meet with your creditors. With all these outlined procedures, it can be seen that filing for bankruptcy is a lengthy process; you are then required to muster enough patience to wait it out.

Finally, what is the effect of a bankruptcy claim to your income taxes or IRS standing? It depends. First, a forgiven debt is taken as a taxable income, except in the case of bankruptcy. Second, filing for one shrinks the other tax benefits entitled to a debtor. Third, it creates a bankruptcy estate, which contains all your assets and is considered another taxable entity when the claim is filed under Chapter 7 or 11. This means then that you have to pay taxes for this newly-formed asset.

The rules and guidelines of bankruptcy can be very complex. For additional information, you can refer to the IRS for detailed tax inquiries. You should also consult with a Tampa tax lawyer. The choice to file for bankruptcy is a huge life decision: be certain that you are equipped with all the support and documentations you require to make an informed choice.

Darrin T. Mish is a Nationally recognized Attorney whose practice focuses on representing clients across the United States with IRS Problems. He is AV rated by Martindale-Hubbel and is a member of the American Society of IRS Problem Solvers and the Tax Freedom Institute. He has been honored by a listing in Martindale-Hubbel's Bar Register of Preeminent Lawyers. His passion is providing IRS help to taxpayers with both individual and payroll tax problems. He also spends a great deal of time traveling the nation providing training to attorneys, CPAs and Enrolled Agents on how to handle their toughest cases with the IRS. If you would like more information about his services please visit <http://getirshelp.com>.