

Bankruptcy and Your Tax Refund

By Arizona Bankruptcy Attorney John Skiba

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As tax season is rolling around I get a lot of questions from those who need to file bankruptcy but are expecting to get a tax refund soon. The simplest advice I can give is if you are looking to file a chapter 7 bankruptcy then you should file your taxes, get your refund, spend it, and then file for bankruptcy. If you file your bankruptcy case before you get your refund, the bankruptcy trustee assigned to your case will be able to take a good portion of it and pay it to your creditors.

If you follow this advice and get your tax refund prior to filing bankruptcy, this naturally leads to the next question – what can you spend your refund on? As weird as it sounds, you should not use your tax refund to pay your debts – especially debts owed to family members or friends. Debts that are paid immediately prior to your bankruptcy filing can be considered a preference or a fraudulent transfer that can result in your bankruptcy trustee seeking to recover those funds and pay them *pro rata* to your creditors.

So where can you spend your refund? Here is a list of places where it would be appropriate to spend your money:

- 401(k) or IRA accounts contributions
- Groceries (you can actually purchase up to 6 months of groceries and fall within Arizona's exemption limits)
- Utilities
- Bankruptcy attorney's fees (this one is self serving, but a tax refund helps a lot of people pay their legal fees and the court costs associated with filing for bankruptcy)

While it is best to get your tax refund prior to filing for bankruptcy, I have a lot of clients that come in and are dealing with a wage garnishment, foreclosure, or law suit that simply can't wait. If that is the case then it will be necessary to file your bankruptcy case as soon as you can to stop the collection efforts against you. You will lose a portion (most) of your tax refund, but if you look at the big picture, most people are able to discharge/eliminate tens of thousands of dollars of debt and in return you will lose what is usually less than a \$5,000 refund. Bankruptcy aside, if I told you that all of your debt could be eliminated if you gave up your tax refund there likely isn't a person out there that wouldn't take that deal.

Also, if timing is important for your bankruptcy filing, at my office we will get started on preparing the paperwork for your bankruptcy for as little as \$250 down, then you can file your taxes, get your refund, and then be ready to file your bankruptcy as soon as possible.

I offer a free bankruptcy consultation where we can discuss your specific situation and help you determine if bankruptcy is a good option for you.

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