

Arizona Bankruptcy Attorney: Bankruptcy & Inheritance Issues

By John Skiba

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After your bankruptcy case is filed with the bankruptcy court there is a meeting held with the trustee assigned to your case. One of the questions he or she will ask you is if you will be entitled to receive an inheritance at any time in the coming six months. It seems like a weird question and even maybe a little morbid, but the situation arises more often than you might think.

The law under the bankruptcy code says that if you become entitled to an inheritance within 180 days of your bankruptcy case being filed, that money or property you receive through the inheritance is part of your bankruptcy. *See* 11 U.S.C. § 541(a)(5)(A). In a chapter 7 bankruptcy this property can be seized by the trustee, sold, and the proceeds used to pay your creditors. In a chapter 13 bankruptcy it may result in you paying your creditors more through your chapter 13 plan than you would otherwise be required to.

This also leads to the question, when does someone actually become entitled to the inheritance? When the person giving you the money dies? Or, when the money is actually distributed from the deceased person's estate? The courts have determined that you become entitled to the inheritance when the person giving you the money dies. This means that if you are in a bankruptcy case and receive notice that you are going to receive an inheritance, that money is part of your bankruptcy estate – even if you may not actually receive the money for some time.

In my free bankruptcy consultations I ask if you expect to receive any type of inheritance in the near future. Having this information ahead of time will help in the planning and timing of your bankruptcy case. I offer a free bankruptcy consultation where we can discuss your specific situation.

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