What happens to your retirement accounts in bankruptcy?

By: Levitt and Slafkes

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When you file a Chapter 7 or Chapter 13 case, you are likely seeking to obtain a fresh financial start. One of the biggest concerns debtors have before filing their case is what will happen to their assets. It is important to understand that bankruptcy law was created to help debtors, so certain assets are protected by property exemptions. The law recognizes it is impossible for a debtor to thrive after emerging from bankruptcy without having certain assets still in place.

A retirement account is often one your most valuable assets. The federal exemption and the majority of state exemptions exclude 401k accounts, Individual Retirement Accounts (IRAS), pensions, and stock bonus plans from being included in the bankruptcy estate. In other words, these funds are not available to the trustee to pay creditors.

If you are going to file for bankruptcy protection and you have a 401(k) account that you are regularly contributing to, it is essential that you discuss with your attorney what effect (if any) the filing will have on your pension. Also, before you borrow any money from your 401(k) fund to pay outstanding debts, you should consult with a bankruptcy attorney to determine if that is the right option for you.

Before you file a bankruptcy case, it is important to contact the legal team at Levitt & Slafkes to learn how the exemptions will benefit you.

If you are interested in learning how filing a bankruptcy case can benefit you, contact Levitt & Slafkes, PC, at 973-323-2953. You can also reach us by filling out our online form. We represent debtors in Chapter 7, Chapter 13 and Chapter 11 filings. Let us help you get the fresh financial start you need today.