

## Tax refunds and bankruptcy. Do they go together?

Now that it's the year 2014, are you expecting a refund on your taxes for 2013? If so, are you also thinking about filing bankruptcy? Let's see how that might work.

### 1. Filing bankruptcy before you receive the tax refund

Because you received the right to that tax refund before you file bankruptcy, **the tax refund is a part of your "bankruptcy estate"**. What does that mean? It means that in a Chapter 7 bankruptcy (the one that gets rid of your debts quickly), the trustee assigned to your case could take that refund and give it to your creditors UNLESS you can "exempt" it. In California, whether you'll be able to exempt it depends on the following:

- **If you don't have equity in your home** that you need to protect (exempt), then you get the California "wildcard" exemption" of almost \$27,000 to exempt cash, bank accounts, stocks and bonds, etc., and also tax refunds to be received. If that \$27,000 covers those things (and maybe some other things), then you're fine.
- **If you do have equity in your home** that you need to protect (exempt), then you don't get that wildcard exemption and would have to look carefully before filing a Chapter 7 bankruptcy before receiving the tax refund. There is also the possibility of a Chapter 13 (payment plan) bankruptcy in which you get to keep everything in return for paying your creditors something over three to five years. That's beyond the scope of this article.

### 2. Filing bankruptcy after you receive the tax refund

**After you receive it, that tax refund money becomes just like any other money you have and must be exempted to keep it from going to the trustee for your creditors.** See the discussion above. But this time, if you can't exempt everything, you may be able to wait to file bankruptcy until you've "spent down" enough money so what's left fits within your exemptions. Note that you DO NOT want to pay back family and friends with this money before filing bankruptcy. If you do, the trustee could sue them to get that money back to give to your creditors.

As you can see, timing may be important. Of course, delaying your bankruptcy filing may have other consequences, possibly worse than losing a part or all of a tax refund, especially if the refund is small. This whole subject is one that you should discuss with a qualified bankruptcy attorney in your area, sooner rather than later.

You also might find the following articles interesting.

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[What is this bankruptcy "Wild Card" I keep hearing about?](#)

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