

## **'Tis the Season for Giving: Bankruptcy, Tithing & Charitable Giving**

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In keeping with the holiday theme I thought I would blog on how charitable contributions are treated for those in bankruptcy. In earlier times people filing for bankruptcy may have had the trustee assigned to their case try and recoup charitable contributions they had made to a church or some other group. In response to this, Congress amended 11 U.S.C. § 548 to specifically protect most religious and charitable contributions by those in bankruptcy. Going one step further, Congress enacted The Religious Liberty and Charitable Donation Protection Act which further protected charitable contributions by those in bankruptcy.

In order to be protected in bankruptcy there are two requirements/limitations: (1) your contribution cannot exceed 15% of your gross income; and (2) your contribution must be consistent with past giving practices. The limitation on 15% of your gross income protects those who tithe and even provides a little extra room for other charitable giving. The requirement that your contribution be consistent with prior giving practices does not permit someone to suddenly become religious on the eve of bankruptcy as a way of funneling funds away from creditors.

In all, I have never had a problem with the bankruptcy court and clients who are charitable. This is true even for those clients that pay a true tithe and donate 10% of the income to their church — often considerable amounts of money. This protection makes good sense and is good policy in that it not only protects people's rights to freedom of religion but also encourages/rewards charitable giving.

Attorney John Skiba offers a free bankruptcy consultation. If you would like to discuss your situation in more detail Mr. Skiba can be reached at (480) 464-1111.