

Will I lose my retirement accounts if I file bankruptcy?

I'm often asked if someone will lose their retirement accounts if they file bankruptcy. **The short answer is almost certainly not.**

Why is that? Because a retirement account will probably either (1) not be part of your "bankruptcy estate" or (2) be protected by an "exemption".



- **Not part of your "bankruptcy estate"**

Nearly all pension plans and 401K savings plans are not included in the bankruptcy estate. These are accounts that are qualified under ERISA (Employee Retirement Income Security Act). Not being a part of your bankruptcy estate is protection of the highest degree.

- **Protected by an "exemption"**

Exemptions are protections for certain items (and amounts) from being taken by the bankruptcy trustee for the benefit of your creditors. IRA accounts are not qualified under ERISA and are therefore available to the bankruptcy trustee, but since the 2005 bankruptcy law they have a federal exemption of \$1M (actually somewhat higher) available in all states. This is high enough to protect almost all IRA accounts.

Of course you want to check with your bankruptcy attorney to make sure your retirement accounts are protected, but they almost certainly are.

Retirement Plans Are Your Saving Grace in Bankruptcy

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