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February 6, 2012

Automatic Stay and Tax Debt

Automatic stay in bankruptcy is the provision in the bankruptcy code that puts into effect an immediate cessation of collection efforts by creditors on you once you file for bankruptcy. When you bankruptcy filing is confirmed, the court will inform your creditors accordingly and enforce the automatic stay. Sometimes, a creditor may try to collect payment outside the automatic stay but to do so he would need the judge to grant permission for these collection activities. In general, the automatic stay will be in force until the court reverses it or you exit bankruptcy.

Automatic stay gives you more time to handle finances. The provision is especially useful for those who are at risk of eviction, foreclosure, utility disconnection and or wage garnishment as it prevents you from being evicted or your property foreclosed, your utilities cut or wages garnished.

Certain payment obligations on your part are exempted from automatic stay, such as alimony payments and child support. When it comes to tax debt many people mistakenly classify it together with alimony and child support thinking that collection efforts by the IRS cannot be stopped by automatic stay.

But this is only partially true. The fact is automatic stay can prevent liens or property seizures by the IRS. And while alimony and child support payments are usually not dischargeable under Chapter 7 bankruptcy, certain tax debt may be dischargeable depending on the circumstances. Your tax debt may be eligible for discharge if it has been assessed by the IRS at least 240 days before filing, you have income tax returns filed for the last 2 years and the debt was due at least 3 years prior.

But if the bankruptcy court decides your tax debt is not dischargeable under Chapter 7 bankruptcy, you can opt for filing for Chapter 13 bankruptcy instead where you pay off your tax debts (along with other debts) under a payment plan. And as long as you abide by the terms of the payment plan, it is unlikely the IRS would make collection effort on you as long as automatic stay is in effect.