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## Dealing with Troublesome Creditors in Bankruptcy

Once you file for bankruptcy, you get automatic stay which means your creditors are to leave you alone. However, at times you will still be harassed by a persistent creditor who either ignores the bankruptcy notice or was not informed of your bankruptcy and keeps phoning you or sending demand letters in the mail. Of course, this is illegal. In such a case, you have to take action and stand up for your rights.

What you should do is keep a record of all their attempts to contact you. Keep on file the letters of demand they send to you and the time and dates of their phone calls. These become evidence of law-breaking that you will use against them. The next thing to do is present all these evidence to your bankruptcy attorney. Your attorney will know what to do and how to bring this matter up to the attention of the bankruptcy court. You can initiate legal proceedings against your creditor(s) and sue them for breaking automatic stay and causing emotional harassment. In most cases, you will be successful as long as you can provide evidence.

Although automatic stay applies the moment you file for bankruptcy, there are certain exceptions. These exceptions come in the case of co-debtors. Some of your debts may be in two names such as a housing loan that is in joint names between you and your spouse. You and your spouse are co-debtors in such a case. All consumer debts (like housing loans) can have co-debtors. When you file for bankruptcy protection, your co-debtor may or may not be protected under automatic stay as well.

The difference comes in the type of bankruptcy you file. If you file for Chapter 7 (i.e. liquidation) bankruptcy, you will be granted automatic stay, but your co-debtor is not. However, if you file for Chapter 13 (reorganization) bankruptcy, then your co-debtor is also afforded protection under automatic stay until you are discharged from bankruptcy.

However, there is one exception to this rule in Chapter 13 bankruptcy and that is in the case of tax debt. Tax debt is not classified as consumer debt. So if you and your spouse are liable for the same tax debt listed in your Chapter 13 bankruptcy, then only you are granted automatic stay and the IRS still has the right to seek payment from your spouse, the co-debtor.

So it is not possible to seek legal redress against the IRS (as you could with harassing creditors) if you have tax debts listed in your Chapter 7 or Chapter 13 bankruptcy.

If you need help with tax debts or bankruptcy, call us at (813) 200 4133 (bankruptcy) or (813) 229 7100 (tax) for a free consultation.