



# INDIANAPOLIS BANKRUPTCY LAW OFFICE OF ERIC C. LEWIS

A Law Firm and Debt Relief Agency Helping Honest People File for Bankruptcy Relief



## **WHAT YOU NEED TO KNOW – TAX REFUNDS, BANK ACCOUNTS AND WAGES OWING**

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Most people filing for bankruptcy relief do not lose any assets as most of things that you own are likely "exempt" under applicable exemption laws. However, there are some things that you need to be mindful of as you prepare your bankruptcy for filing.

### **The date that you file your bankruptcy case means everything – almost!**

After your paperwork has been finished, fully reviewed and signed, it will be ready to file with the bankruptcy court. The date that it is filed will be coordinated to make sure that you are aware of all the implications of filing on that particular date because just about everything revolves around that date.

### **Tax refunds**

The one "asset" that people in bankruptcy tend to lose more than anything is part, or all, of their income tax refunds. Non-exempt portion of tax refunds are taken by the bankruptcy trustee for the year in which your case is filed. Some things to consider:

- The timing of your bankruptcy filing
- The projected amount of your tax refund(s)
- Whether there is exempt money, such as Earned Income Credit

Timing is key. Let's say for example that you file a bankruptcy case on April 26<sup>th</sup>. That is day 116 out of the year, meaning that about 31.8% of the year is done. That means that the trustee could take 31.8% of the non-exempt portion of your tax refund when you do your taxes next year. The later in the year, the higher the percentage: July 12<sup>th</sup> is day 193 (52.9%) October 22 is day 295 (80.8%). So what happens if you file early in the year? Well, the question is have you received your tax refund yet? If not, then 100% of the tax refund for the last calendar year is owing to you and if you file bankruptcy before you get your tax refund, you could lose the entire "non-exempt" portion. If you get your tax refund and spend it on legitimate necessities, and then file your bankruptcy, the money is gone and the only tax refund owing to you is that percentage of the current year (example, February 25<sup>th</sup> is day 56 or 15.3%).

So what's exempt? When it comes to tax refunds, the exemption in Indiana is "earned income credit" or EIC." If you want to check your tax returns to see if you have EIC, check:

- Federal Form 1040, line 17a
- State Form IT-40, Schedule 5: Credits, line 5

**YOUR OWN EXAMPLE:** TODAY'S DATE IS \_\_\_\_\_ WHICH IS DAY \_\_\_\_\_ OR \_\_\_\_\_ %  
*Presuming that a  
 bankruptcy case  
 is filed on this date*

YOUR EXPECTED TAX REFUND IS: \_\_\_\_\_

MINUS EARNED INCOME CREDIT: - \_\_\_\_\_

NON-EXEMPT REFUND AMOUNT: \_\_\_\_\_

\_\_\_\_\_ % OF NON-EXEMPT AMT: \_\_\_\_\_

### **Bank accounts: VERY IMPORTANT**

And when we say bank accounts, we actually mean any money held in hand or on deposit, So that's checking, savings, stocks, bonds, Certificates of Deposit, gift cards, debit cards, check cashing cards, payroll cards, PayPal, Greendot, etc. ANY of these types of accounts when you file bankruptcy ALL TOTAL cannot exceed (in Indiana, using Indiana exemptions) more than **\$400.00 per person**. So when you file bankruptcy, going into the day that it is filed, make sure that you do not have more than \$400.00 in the accounts total. And that means that all checks or debits have actually cleared and posted. Any amount above the amounts exempt by law could be taken for the benefit of your creditors in the bankruptcy.

### **Wages owing and bonuses**

On the date that your bankruptcy is filed, are you owed wages or bonuses? For wages, the bankruptcy trustee could potentially take up to 25% of your net wages that were owing to you as of that date. For most people, this is a small amount, especially with a little planning on the timing. But be aware of this because if the amount is large enough, the trustee will demand that you turn it over for the benefit of your creditors. The same is true for portions of earned yet unpaid bonuses.

### **Does anyone owe you money?**

On the date that your bankruptcy is filed, are you owed money from anyone for anything? Do you have the right to sue anyone for money? If the answer is yes, then the bankruptcy trustee could possibly take all of this money from you to pay your debts in bankruptcy. Other "assets" owing to you at the time of your bankruptcy being filed could include insurance proceeds, lawsuits, claims, unpaid wages, benefits, etc. Make sure your attorney is aware of any of these possible assets BEFORE your bankruptcy case is filed with the court.

### **Will you inherit money?**

Most things in bankruptcy are concerned with the date your bankruptcy is filed and look backwards from there. When it comes to inheritance, it is forward looking as well. **If you inherit money within 180 days** of your bankruptcy being filed, it is property of the bankruptcy estate and the trustee can take it to pay your debts in bankruptcy. What matters here is within that 180 day period, have you gained the right to property or money – not that you have actually received it. If someone dies within that 180 days and you inherit, you will most likely lose that money. On the other than, if someone dies 181+ days after you file bankruptcy, and you inherit money or property, no matter how much, you get to keep it all!

### **Payments to friends, family/relatives**

In the last year, have you made any payments to friends, family members, or business partners? The bankruptcy code calls these people "insiders" and it is possible for the bankruptcy trustee to go after these people in certain situations for the money that you paid them. If you have made a payment to an "insider," you may wish to consider the timing of your bankruptcy filing. Tell your lawyer if you think this applies to you! Bankruptcy trustees have sued people's family members for insider payments and other things deemed as "fraudulent transfers" of money, even if and when no fraud is involved. When in doubt, ask your lawyer!