

Tax Return and Refund Procedures

Tax returns and tax refunds are to be turned over to the Trustee by April 30th of each year.

Cases filed prior to October 17, 2005 and Below Median Debtors under BAPCPA

1. Determine the date of the first payment under the plan.
2. If the due date (April 15th) of the tax return falls within 3 years from the date of the debtor's first payment under the plan, any tax refund received must be turned over. Any tax returns due after 3 years from the first payment, do not need to be provided, nor are the refunds from such returns required to be turned over.
3. If the tax refund or estimated tax refund is included on Schedule B and considered in the liquidity analysis, it is not necessary to turn over that year's tax refund.

Above Median Debtors under BAPCPA

11. The applicable commitment period of the plan is 60 months, so the tax refunds received during the life of the plan are required to be turned over.

FAILURE TO TURN OVER REQUESTED TAX RETURNS WILL RESULT IN A MOTION TO DISMISS BEING FILED.

FAILURE TO TURNOVER A REQUIRED TAX REFUND WILL RESULT IN A MOTION TO MODIFY FILED BY THE TRUSTEE INCREASING THE PAYMENT BY THE TAX REFUND AMOUNT IN MAY.

ALL TAX REFUNDS WILL BE DISTRIBUTED TO THE UNSECURED CLASS UNLESS OTHERWISE ORDERED BY THE COURT.

ALL TAX RETURNS WILL BE REVIEWED TO DETERMINE WHETHER ADDITIONAL DISPOSABLE INCOME EXISTS REQUIRING A MODIFICATION. AMENDED I & J SCHEDULES ARE ENCOURAGED TO BE FILED TO REFLECT NEW INCOME AS WELL AS NEW EXPENSES.

REVIEWING REQUESTS FOR KEEPING TAX REFUND

1. All requests to keep refunds must be in writing and accompanied by receipts, invoices, estimates or whatever other documentation that will evidence that the refund is not disposable income. If no documentation is provided, the request will be denied.
2. If the review of the tax return shows that the actual income is lower than the amount on Schedule I, then the tax refund will not be considered disposable income.
3. If the request to keep the refund is based on an expense that is already provided for in Schedule J, the request will be denied.

4. At this time, we will not require turnover of tax refunds where the plan provides for 100% distribution to unsecured creditors. This is subject to change if a trend of modifications or conversions to avoid the 100% distribution after 36 months occurs.

5. Earned Income Credits will be subject to the same review outlined in paragraphs 1 through 4.

6. Tax Rebates resulting from an Economic Stimulus Initiative will not be subject to turnover.

7. Urgent requests should be submitted with the tax return rather than waiting for the refund to be received and we will do our best to review the request prior to the receipt of the refund to avoid turnover if approved.