

## **WHAT DEBTS ARE NOT DISCHARGED IN A BANKRUPTCY CASE**

There are certain types of debts that are **NEVER** discharged in a bankruptcy case. These include:

- A. Recent taxes (last 3 tax years) prior to filing
- B. Taxes that have never been filed ... or if filed more recently that 2 years ago
- C. Taxes that are assessed due to a fraudulent return
- D. Trust taxes (Payroll taxes for businesses your operate)
- E. Child Support and Alimony (Maintenance). This includes debts to attorneys, custody evaluators, guardian ad litem, etc that you are ordered to pay as a result of a custody issue or determining the amount of support or alimony you are to pay.
- F. Court fines and restitution amounts
- G. Fines and penalties to Government Entities
- H. Debts for personal injuries caused by your operation of a motor vehicle while intoxicated
- I. Student Loans (unless you prove that there is NO chance that you'll ever be able to work or have any chance of making payments on the loans) - Some attorneys refer to this as the "no limbs and mentally deficient" rule.
- J. Homeowner's Association dues for real estate that you intend to keep in your bankruptcy ... and for any dues that arise AFTER your case is filed while you still are the title owner of the property.

There are a couple types of debts that cannot be discharged in a Chapter 7 case, but CAN be discharged in a Chapter 13 case.

- K. Debts in your spouse's name that a Court has ordered YOU to pay in a divorce or domestic relations case.

Finally, there are other types of debts that are not automatically excepted from discharge. For these debts, the creditor must ask the court to determine if they are dischargeable or not. The court will require that the creditor file a Complaint with the Bankruptcy Court and serve you with a copy for you to answer similar to other types of lawsuits. The creditor will then have to show one of the reasons below why that particular debt should not be discharged.

These types of debts include:

- A. credit card purchases for luxury purchases of more than \$650 and incurred within 90 days prior to the filing of your bankruptcy.
- B. cash advances aggregating to more than \$925 obtained by debtor within 70 days of filing for bankruptcy.
- C. debts obtained by fraud or false pretenses (i.e. where you lied on your application for the credit card or misrepresented something in order to get the debt or owe the money).
- D. debts where you spent money that you were supposed to be holding and protecting for another (breach of a fiduciary duty), and
- E. debts incurred as a result of willful and malicious injury to another or to the property of another.