

DEALING WITH TAXES IN A CHAPTER 13 PLAN

TAXES OWED PRIOR TO FILING YOUR CASE:

When it comes to income taxes, there are 3 types of taxes that need to be dealt with.

Unsecured Taxes: These are the taxes where the tax returns were due and filed at least three years prior to filing your bankruptcy case. The rules concerning what constitutes an unsecured tax are complicated, but if you filed your taxes timely and more than 3 years ago, chances are that they are “unsecured” taxes. Unsecured taxes will be treated like any other unsecured debt in your Plan and will receive only a prorated share of the total payments that you plan pays toward unsecured debts. When you complete your Chapter 13 Plan, any unpaid unsecured taxes are “discharged.”

Priority Taxes: These are recent taxes from the last 3 year (plus ANY older taxes that weren't filed timely – the meaning of this can actually be quite complicated). These taxes must be paid in full by your Chapter 13 Plan, however there will be no future interest or penalties added to this amount.

Secured Taxes: If the IRS or taxing entity has filed a “lien” regarding back due taxes (normally taxes older than 3 years), then the taxing authority can take any property that you have at the time of filing. In order to prevent them from doing this, your Chapter 13 Plan will have to pay them the amount of the lien taxes up to the value of any equity you have in personal property and real estate at the time of filing. Thus, if you have a car worth \$10,000 at the time of filing and a loan of \$7,000 secured by that car, you have equity of \$3,000 in the car that will count toward determining what the total amount of secured taxes will have to be paid in your plan. This is why it is best to file your bankruptcy case before the taxing authorities get mad enough at you to file a lien.

Note that occasionally the taxing authorities (typically the Colorado Department of Revenue) will send you collection letters even after your Chapter 13 case has been filed. Don't panic. They are a mistake. They tell us that sometimes they can't shut off the automatic letters!

TAXES OWED IN FUTURE YEARS:

Remember to be sure to have an appropriate amount of withholding taxes (or tax deposits) taken out of your income each year. **IF YOU END UP OWING TAXES FOR FUTURE YEARS**, those taxes are NOT a part of your bankruptcy and there will be nothing that stops the taxing authorities from filing levies, garnishments or taking future tax refunds to pay these amounts owed!