What Happens to My Tax Refund in Bankruptcy?

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As we enter tax season, many people are eagerly awaiting that quick infusion of cash known as the Federal and State tax refund. But if you are considering filing for chapter 7 bankruptcy, you could lose it if you do not plan your case carefully.

Tax Refunds Are Assets

If you expect either a State or Federal tax refund in 2012, you must note it as an asset on your bankruptcy paperwork. If the refund is large enough, and if it cannot be protected with Federal or New York State exemptions, it can be taken away from you and made payable to your creditors. The individual who would take it is known as the Chapter 7 Trustee, who is charged with marshaling your assets, liquidating them and paying the proceeds to your creditors.

How To Protect Your Tax Refund in Bankruptcy

The good news is that there are a variety of ways to avoid the loss of this asset. Through the proper use of exemption laws (and the proper timing of your case filing) you can typically keep most, if not all, of your anticipated refund. If you expect to receive your refund before you file for bankruptcy, you will need to know how to spend the money without raising the ire of the bankruptcy trustee and Court. How to go about doing that requires the advice of a skilled attorney, who will help you plan your case accordingly.

Protecting assets in bankruptcy can be a daunting task. Don’t go it alone — seek the advice of an experienced bankruptcy attorney.