



How Do I Make Sure the Chapter 7 Trustee Won't Take My Property?

By Richard Fonfrias, J.D.

In a chapter 7 bankruptcy, you are required to give the trustee unprotected property that you owned at the time of filing. So before you file for bankruptcy, it's wise to limit the value of your unprotected property with some advanced planning.

The most common assets trustees look for include:

- (1) cash,
- (2) bank accounts,
- (3) landlord and utility deposits,
- (4) tax refunds,
- (5) sporting goods.

By reducing the value of these assets, you are not cheating or acting illegally; you are simply using the law to your advantage, much like using tax laws to determine the best time to sell property.

Cash. No cash on hand before filing a chapter 7 bankruptcy is the best way to go. Further, if you have received cash or a paycheck or closed a bank account shortly before filing your case, you should use those funds before filing your bankruptcy. You should use those funds for valid purposes and keep receipts so you can prove the funds were properly used.

Money that you have before filing your chapter 7 bankruptcy may be used for (1) food, (2) groceries, (3) the chapter 7 filing fee, (4) the attorney's fee in the chapter 7 case, and (5) the payment to creditors whose claims you intend to reaffirm and continue paying after filing bankruptcy.

You can also make your annual IRA contribution or to any other exempt pension plans, they are generally protected. Use cash or other liquid assets to pay off debts that will not be dischargeable, such as taxes. You may take out a life insurance policy, which will be exempt. Do not make gifts or loans to friends or relatives, however, because the trustee may later seize these payments.

Bank Accounts. All bank accounts should be closed before filing a chapter 7 bankruptcy. If a bank account is not closed, the account balance should be as close to zero as the bank allows and all outstanding checks must clear the account before the bankruptcy is filed. Un-cashed checks could be deemed an asset to be paid to the trustee.

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Landlord and Utility Deposits. Unless these deposits are exempt, you should try to get a refund of all landlord and utility deposits before filing your chapter 7 bankruptcy. Otherwise, you may have to turn the funds over to the trustee.

Tax Refunds. If you expect a tax refund, you should file your chapter 7 case after you receive and properly spend your refund. The best strategy is to either file the chapter 7 case early in the tax year (but after the refund from the previous year has been received and spent) or make arrangements to insure that there will be no tax refund for that year.

Sporting Goods. Items that are uniquely valuable like guns, fishing gear, skis, cameras, and similar items should be disposed of before filing. Otherwise, you may have to turn over the items -- or their value in cash -- to the trustee.

If you want more information about bankruptcy and non-bankruptcy options, talk with an experienced financial rescue and bankruptcy lawyer.

You're Invited to Call or E-mail.

"If you have questions about bankruptcy, foreclosure, credit card debt, loan modifications, tax liens or other financial problems, please send your e-mail today to

rich@chicagomoneylawyer.com or call 312-969-0730." -- *Rich*

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