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## Little-known Info from a Bankruptcy Lawyer

### **Circumstances Excluded from Automatic Stay**

When you file for bankruptcy, an automatic stay goes into immediate effect. The automatic stay refers to the prohibition on creditors from continuing to seek payment from you using any means. This brings immediate relief from harassment and any high-handed tactics used by creditors to get money from you. But there are certain circumstances where automatic stay is not possible. Here are some of them.

#### 1. Child support

Automatic stay does not apply to your obligation to give child support. This is also the case with any other court-ordered payment such as alimony.

#### 2. Divorce proceedings

If you are in the midst of divorce proceedings, you cannot get out of it as automatic stay does not apply here. The only situation where automatic stay comes into play in divorce proceedings is when there is an issue over property in the divorce. In this case, your spouse (or soon-to-be ex-spouse) is not allowed to approach you over the property once you file for bankruptcy.

#### 3. Crime

If you are indicted of a crime or are charged with committing it, then an automatic stay will not prevent you from undergoing the legal process of going to court, answering your charges, defending yourself etc.

#### 4. Landlord actions

If an eviction notice has been served on you before you filed for bankruptcy, an automatic stay cannot be used to stop eviction proceedings. However, there may be a chance your bankruptcy lawyer may help prevent you from getting evicted if your landlord has not filed the necessary papers.

#### 5. Retirement Plan Loans

If you have taken a loan on any retirement plan such as a 401, you are still obligated to repay the loan. This means any deductions on your paycheck to repay the loan will continue and automatic stay does not annul them.

If you wish to know whether any of your circumstances are exempted from automatic stay, call us at (813) 200 4133 for a free consultation.

### **How to file Chapter 7 Bankruptcy even though Below Means Test**

Chapter 7 Bankruptcy refers to the section in the bankruptcy code that relates to liquidation bankruptcy where your non-exempt assets are liquidated to pay off your debts. Any unpaid debts after that process are forgiven so that you can start afresh financially. To be eligible to file for Chapter 7 Bankruptcy is not easy for obvious reasons. You have to pass the Means Test i.e. your income needs to be below the Means Test level set for your state. Generally, if you fail the Means test, you have to file for Chapter 13 bankruptcy instead.

If you know your income falls above the Means Test level, here are some things you can do to change things:

#### 1. Buy health insurance

Health insurance is deductible from your income so having this insurance would lower your income level.

## 2. Take the Means test at the right time

For many people, income may vary depending on the timing. After losing your job, your income obviously reduces substantially, so you should take the Means Test when your income is at its lowest.

## 3. Review the number of people in your household

The Means Test takes into consideration the total income of those who live in your household, not only the members of your family. This consideration may be able to reduce your household income, depending on your circumstances.

If you wish to file for Chapter 7 (or Chapter 13) bankruptcy, call us at (813) 200 4133 for a free consultation.