Tax Claims That May Affect Bankruptcy by Sean Benton

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The government provides tax debt relief to individuals who are distressed with their taxes. But beware, the government does not hesitate in taking severe measures to collect taxes from delinquent tax payers. These two aspects of the government may be contradictory but they do co-exist. It is also the government that wants to help tax payers who may have declared bankruptcy, to start fresh financially. This is probably the reason why the Bankruptcy Code that deals with the discharge of tax debt is so complicated. Whether or not you will be able to discharge your tax debts by declaring bankruptcy depends largely on the type of tax debt you are trying to get discharged.

How are tax claims classified?

Tax claims are classified under 5 different categories:

Trust Fund Taxes: These are the taxes that are withdrawn from the wages of an employee by their employer and are deposited into a trust until there are enough funds accumulated to pay off the treasury. If your employer has withheld the taxes from your salary but has not transferred the money to the government, it becomes the employerâ€™s debt. However, if you fail to get the appropriate amount of taxes withheld and have filed for bankruptcy, the IRS can get a priority claim approved against you with respect to the Federal Bankruptcy Code.

Secured Claims: These are claims that are secured by lien on any asset that the debtor possesses. Failure of payment leads to the confiscation of the assets by the IRS to recover the tax debt. In most cases, the claims can only be secured up to the amount the asset is worth. Again, if the property has any pre-existing liens and those liens amount to more than the value of the property, then the claim is cannot be secured. However, if the amount of pre-existing liens is less than the value of property, then the IRS will have a secured claim that is limited to the equity of the property.

Administrative Tax Claims: Under the regulations of the Federal Bankruptcy Code, tax amounts that are accrued when a bankruptcy is pending, are categorized as administrative taxes. Based on a recent Supreme Court ruling, tax penalties may be subject to some subordination but occasionally they are considered as priority claims. You could get professional tax debt help in such a case.

Priority Claims: These are against unsecured claims that may be pending under government entities. This type of claim is governed by three important rules like â€œThe Three Year Ruleâ€•, â€œThe Days Ruleâ€• and â€œThe Post-Petition Ruleâ€•.

General Unsecured and Penalty Claims: Those taxes that are not categorized under secured, administrative or priority claims are considered as General Unsecured Claims.

When declaring bankruptcy you must remember that income tax debt may be discharged either by liquidation (Chapter 7) or through reorganization (Chapter 11 or Chapter 13). Chapter 13 Bankruptcy has restrictive provisions for discharge, there are certain tax debts that otherwise cannot be discharged under any other chapter but Chapter 13 bankruptcy.

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Sean Benton is a well-known writer who writes for different financial websites. His articles are almost hands on theory on the different topics related with taxes and tax debts. He writes many articles on income tax debt for a http://www.newlifetaxrelief.com/.

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