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New Bankruptcy Law Changes Debtors' Responsibilities

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The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) amends the U.S. Bankruptcy Code by adding new responsibilities for debtors.

In general, the new law requires that debtors comply with their tax-filing responsibilities, make available previously-filed tax returns, in many cases, and seek credit counseling services. Most BAPCPA provisions apply to cases filed on or after Oct. 17, 2005.

Tax Returns Must be Filed

Under the new law, if debtors fail to file a return that becomes due after the date of their bankruptcy petition, or fail to file an extension, the IRS may request the Court to order a conversion (change from Chapter 7 to Chapter 11 or from Chapter 11 to Chapter 13, for example) or dismissal of the case. Conversion or dismissal may also be ordered if a Chapter 11 debtor fails to timely pay tax obligations owed after the date of the bankruptcy petition.

In order to have their plan confirmed, Chapter 13 debtors must also file all tax returns with the IRS for the four-year period before the bankruptcy petition. The debtor must establish filing by the first meeting of creditors.

Seven days before the first meeting of creditors, debtors must provide trustees a copy of their most recently filed federal tax return or a transcript of the return. Similarly, copies of amendments to such returns, and any past due returns filed while the case is pending, must also be filed with the court if requested. The returns or transcripts must be provided to the court at the same time they are filed with the IRS. If the returns or transcripts are not filed, a Chapter 7 discharge will not be granted, or a Chapter 11 or 13 plan will not be confirmed. In addition, debtors must also provide a copy of the tax return or transcript to requesting creditors.

Free Transcripts Available

Debtors who failed to keep copies of their returns can obtain copies or transcripts from the IRS. Though not an actual photocopy of the return, a tax return transcript shows most line items from the return, as filed. There is no charge for a transcript, but user fees apply for copies of the actual return.

To request a free transcript, log onto IRS.gov, click on Individuals then on [Need a Copy of Your Tax Return Information?](#) and then link to Form 4506T. Mail or fax a

completed Form 4506T to the IRS. Transcripts are available for the current and three prior calendar years. Transcripts can also be ordered by calling 1-800-829-1040.

Alternatively, taxpayers can use Form 4506 to request a copy of a tax return. This form can be downloaded from the IRS Web site or obtained by calling 1-800-TAX-FORM (829-3676). Mail the completed form to the address in the instructions and include a check or money order for \$39.

Means Testing for Chapter 13

Under the new law, individual debtors who meet certain income tests will be required to make regular payments on their debts under a Chapter 13 plan. The new law also authorizes the bankruptcy courts to modify IRS expense standards and use them to make this “means test.”

Expense standards published on the IRS Web site at <http://www.irs.gov/individuals/article/0,,id=96543,00.html> are used for tax-administration purposes only and may differ from those established by the bankruptcy courts. Inquiries about standards for means testing should be directed to the local office of the United States Trustee (Department of Justice).