



## THE NEEDLEMAN LAW OFFICE

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### Eliminating Tax Debts in Bankruptcy

**Most taxes can't be eliminated in bankruptcy, but some can.**

You may hear radio commercials offering the hope of eliminating tax debts in bankruptcy. But it's not as simple as it sounds. Most tax debts can't be wiped out in bankruptcy -- you'll continue to owe them at the end of a Chapter 7 bankruptcy case, or you'll have to repay them in full in a Chapter 13 bankruptcy repayment plan.

If you need to discharge tax debts, Chapter 7 bankruptcy will probably be the better option -- but only if your debts qualify for discharge (see below) and you are eligible for Chapter 7 bankruptcy .

#### **When You Can Discharge a Tax Debt**

You can discharge (wipe out) debts for federal income taxes in Chapter 7 bankruptcy only if *all* of the following conditions are true:

- **The taxes are income taxes.** Taxes other than income, such as payroll taxes or fraud penalties, can never be eliminated in bankruptcy.
- **You did not commit fraud or willful evasion.** If you filed a fraudulent tax return or otherwise willfully attempted to evade paying taxes, such as using a false Social Security number on your tax return, bankruptcy can't help.
- **The debt is at least three years old.** To eliminate a tax debt, the tax return must have been originally due at least three years before you filed for bankruptcy.
- **You filed a tax return.** You must have filed a tax return for the debt you wish to discharge at least two years before filing for bankruptcy.
- **You pass the "240-day rule."** The income tax debt must have been assessed by the IRS at least 240 days before you file your bankruptcy petition, or must not have been assessed yet. (This time limit may be extended if the IRS suspended collection activity because of an offer in compromise or a previous bankruptcy filing.)



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### **You Can't Discharge a Federal Tax Lien**

If your taxes qualify for discharge in a Chapter 7 bankruptcy case, your victory may be bittersweet. This is because bankruptcy will not wipe out prior recorded tax liens. A Chapter 7 bankruptcy will wipe out your personal obligation to pay the debt, and prevent the IRS from going after your bank account or wages, but if the IRS recorded a tax lien on your property before you file for bankruptcy, the lien will remain on the property. In effect, this means you'll have to pay off the tax lien in order to sell the property.

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