

OFFICE OF THE CHAPTER 13 TRUSTEE – WESTERN DISTRICT OF MISSOURI
2014 TAX REFUNDS

Richard V. Fink, Trustee



January 30, 2015

Below are my procedures for 2014 Tax Refunds:

1. You or the debtor(s) must provide the 2014 Tax Returns to my office. Please do not email them; please either upload them onto the Secure FTP Server or mail them to my office.
2. If the confirmed Chapter 13 plan provides for turnover of tax refunds to me, please remit those refunds to the lockbox, PO Box 1839, Memphis, TN 38101-1839, and identify the item as "2014 Tax Refund."
3. My staff will review the 2014 Tax Returns for:
 - Non-exempt equity (pre-petition asset-normally for the year in which the debtor(s) filed)
 - Understatement of income or disposable income (any year)
 - Delinquency and amortization issues (any year)
4. If the total of all tax refunds (federal, state and local) is \$1500.00 or less and neither the plan nor a court order requires the turnover of the refunds to me, the debtor may retain the refunds.
5. If the total of all tax refunds (federal, state, and local) is \$1500.01-\$2500.00, and neither the plan nor a court order requires the turnover of the refunds to me, the debtor may retain the refund and spend it on reasonable and necessary expenses **IF**:
 - You or the debtor(s) details to me, in writing, the expenses for which the tax refund will be used; **OR**
 - You have pro-rated the estimated tax refunds on Schedule I and included it in their monthly income, and the actual refund is close to the estimated amount; **AND**
 - If the tax refund is a pre-petition asset, the tax refund is wholly exempted on Schedule C. (If the tax refund is partially exempted, the remaining non-exempt portion will have to be explained to me in writing if the refund is not pro-rated on Schedule I).
6. If the total of all tax refunds (federal, state, and local) is \$2500.01 or greater, **and the debtor wishes to retain any portion of the refunds**, the debtor must file a motion with the court detailing the reasonable and necessary expenses. If the tax refund is fully accounted for on Schedule I and there is no equity in the tax refund, a motion need not be filed. If it is not fully accounted for on Schedule I or not wholly exempt the debtor will

have to file a motion with the Bankruptcy Court to keep the nonexempt portion and/or the portion which is not accounted for on Schedule I.

7. Please instruct the debtor: 1) Not to spend the refunds until an order is entered **AND** is final if it is \$2500.01 or more; **OR**, 2) I have authorized its retention if it is between \$1500.01 and \$2500.00.
8. Please keep the following issues in mind when you review your client's tax returns:
 - If the tax returns show that the debtor has had an increase in income, I may file a motion to amend the plan to increase the plan payment to account for the additional disposable income; **OR**, the debtor can amend the schedules and plan to reflect the debtor's positive change in circumstances.
 - If the tax refund creates additional non-exempt equity, I may file a motion to amend the plan to cover the non-exempt portion of the refund; **OR**, the debtor may amend the plan to cover the non-exempt equity.
 - I likely will not grant permission to keep the refund until an increase in income is accounted for and/or the non-exempt equity is covered.
 - If the debtor is delinquent or the plan runs long, I likely will not grant permission to keep the refund until those issues are resolved.
 - I encourage debtors to remit their tax refunds, or a portion thereof, to me to cure or reduce delinquency or amortization issues. Please identify in writing that the funds are intended for one of these purposes.
 - If the debtor is below median and the debtor has satisfied the applicable commitment period by December 31st, 2014, it is unnecessary for the debtor to report the tax refunds to my office.
 - If the debtor has proposed a 100% dividend to the unsecured non-priority creditors, it is unnecessary for the debtor to report the tax refunds to my office.