

The Newsletter

Faucher Law

Yes, Bankruptcy CAN Get Rid of Your Tax Bill

Dumping Tax Debt With Bankruptcy

It seems to be an Urban Myth that bankruptcy cannot be used to get rid of tax debt. Perhaps it comes from the fact that *certain* kinds of taxes, like payroll and excise taxes, are listed first among debts that cannot be discharged in bankruptcy, as per the scintillating reading found in 11 U.S.C. § 523. But if you venture deeper into the fine government print (gripping summer reading, I know!), you'll find that you CAN get rid of federal and state taxes if your tax debt meets all of the following conditions:

1) It's been three or more years since the taxes were due. This gives the IRS and California's Franchise Tax Board (or other states' tax authorities) sufficient time to collect – and ensures that you'll receive plenty of unsettling collection notices while you wait for the debt to "ripen." (Making you squirm for not filing or paying taxes is part of Congress's intent.)

2) You actually filed the tax return more than two years earlier, but you didn't pay your entire tax bill, or any of it.

3) If you have been audited and your tax liability increases, the new tax assessment must be more than 240 days old (8 months) before you can file your bankruptcy petition.

4) You didn't file a fraudulent tax return. If an IRS audit determines there was fraudulent information on the return, such as my claiming a farming deduction just because I have some backyard chickens (no, I have not actually done this), then that tax cannot be discharged.

5) You haven't evaded the payment of taxes by hiding assets and income. If an IRS analysis shows you should be able to pay at least some of your tax debt, then you must pay it. The most often-cited "evasion" the IRS finds is paying for children's college tuition.

6) The tax is not payroll tax (Social Security and Medicare withholding). Payroll taxes not only cannot be discharged, but Congress treats the failure of employers to send the government the Social Security and Medicare taxes they've withheld from employees as a theft, and the employers who commit this as unindicted criminals. **JDF**

THE FAQ FILE:



WHO WIPES OUT TAXES THROUGH BANKRUPTCY?

Most of my clients who have discharged large tax debts through bankruptcy are small business owners or entrepreneurs. These folks usually should have been making quarterly estimated tax payments but didn't, or they were victim of embezzlement by an employee or bookkeeper and thought taxes were being paid but they weren't.

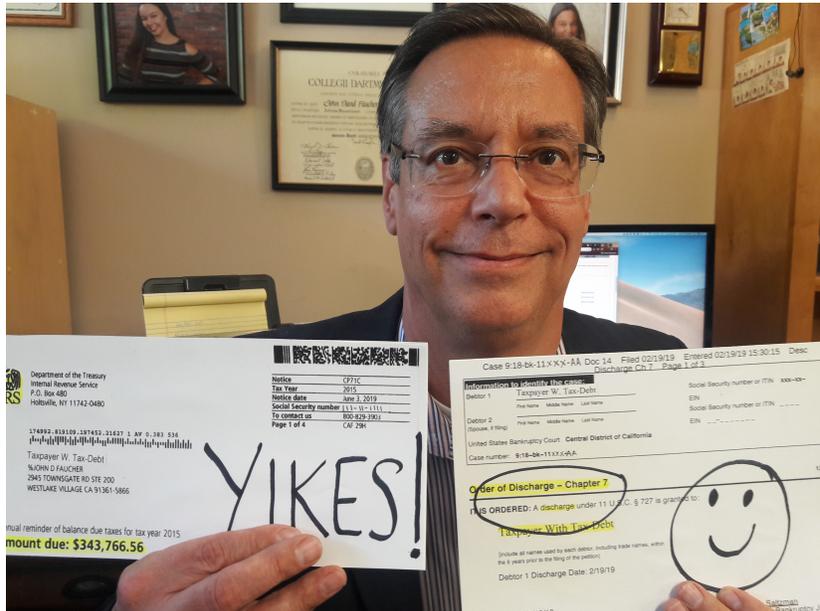
For most people with W-2 wage income, their taxes are largely paid through regular withholding from their paychecks. However, I do have some W-2 employees who received a large tax bill after an audit, and then came to me.

WELCOME TO FAUCHER LAW

John D. Faucher worked for 10 years as an IRS trial attorney, and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy** systems and can help you get the best results. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends or family.

(805) 591-8139
johndfaucher.com

Bankruptcy As Tax Remedy?



I am often asked why I practice both tax and bankruptcy law. After all, they don't seem to have an obvious synergy – until you learn that federal and state tax debts can be discharged in bankruptcy. That's right: wiped out. In this issue of **The Newsletter**, I go over the very picky rules that allow a bankruptcy proceeding to erase taxes.

Joe Client
 456 Maple Street
 Santa Barbara, CA 93103

JOHNDFAUCHER.COM

FAUCHER LAW
 4333 PARK TERRACE, SUITE 120
 WESTLAKE VILLAGE, CA 91361