

The Newsletter



FAUCHER LAW

TAX & BANKRUPTCY

To Keep or Not to Keep:

What Happens to Cars in a Chapter 7 Bankruptcy?

INSIDE STORIES

- John's Annual "Best Of" List!
- Our German Oma's Sauerbraten Recipe

In bankruptcy, paid-off cars become assets of the Bankruptcy Estate and potentially can be sold by the Bankruptcy Trustee, who can use the proceeds to repay the debtors' creditors. But **Trustees cannot sell cars worth \$7,500 or less** since most of us need a car to

function. A car worth more than \$7,500 also can be kept if the debtor claims the car's value under the Wildcard Exemption. California law allows debtors to claim either the Wildcard Exemption (worth up to \$32,000 in any assets the debtor chooses), or the Homestead exemption (worth about \$750,000 in equity in a primary residence). The Trustee cannot take these assets to repay debts. Trustees won't automatically sell cars worth more than \$7,500 since it takes time and even a lawyer to legally seize the car. **Most Trustees ignore cars worth up to \$10,000 because of the hassle factor to sell them**, but they frequently demand the debtor pay the difference between the \$7,500 exemption and the value of the car. Most debtors who do this get the money from friends.

Leased Cars. *It can be easier to keep leased cars in bankruptcy than owned cars, because the lessor has no equity in a leased car.* In these cases, the debtor may continue their lease if they are making their payments.

Pre-Bankruptcy Planning is crucial to minimize car and other asset loss in bankruptcy. If a debtor owns a high-value car, they may want to sell it before filing bankruptcy, using the proceeds to pay off certain creditors. Or, if the debtor owes for recent tax years, s/he could pay off the IRS. Timing issues are involved with both, so it's vital to have **an experienced, competent attorney examine all the specifics of your finances.**

Cars with Loans. What about the case of an Ionic 5 worth \$50,000 with \$30,000 still owed? If the debtor doesn't own her home, then she will use the Wildcard Exemption to keep the \$20,000 in car equity. If she uses the Homestead Exemption, then the Trustee is likely to take the car or demand payment of \$12,500 – the difference in the value between what she owns and the exemption. Her lender is notified of her bankruptcy when it's filed. But the **lender is required by law to allow the debtor to keep the car if timely car payments continue.**

On-Line Access to Loan. Many banks stop client on-line access once a bankruptcy is filed, including the ability to pay on-line. These banks typically require a check be mailed instead. Some banks also ask the client to sign a Reaffirmation Agreement, confirming what's still owed and committing to repayment. **Do NOT sign a Reaffirmation Agreement!** First, your lender cannot close your account for failure to sign. Second, you are worse off by signing because of a legal technicality. Prior to bankruptcy, BOTH the debtor and car owe the debt, meaning the bank can repossess the car if the debtor stops paying, then sue the debtor. Bankruptcy erases the car note for the debtor, but not from the car (it didn't file bankruptcy, after all), leaving only the car owing the money. A Reaffirmation Agreement puts the debtor back on the hook for what's owed. If you don't make payments, the bank still has the right to repossess your car. Why also give them the right to sue you personally?





JDF



Sebastian doesn't usually stick out his tongue, but I think he's taunting you to call us! That, or he only just finished lunch...

Call us!
(818) 889-8080

John's "Best of 2024" List

Book	<i>Jesus and the Disinherited</i> , Howard Thurman. This short volume, which greatly influenced Dr. Martin Luther King, Jr., endorses Christianity as a highly-effective tool for those who would resist tyranny and oppression.
Case Outcome	Entrepreneur dies, and his heirs file an estate tax return reporting an estate of \$150 million. IRS audits and says it should be \$177 million, meaning the estate owes another \$11 million in tax. We tried to negotiate, but IRS refused. IRS then bobbled the assessment procedure. I filed a Tax Court petition to challenge the assessment and had the entire \$11 million assessment dismissed because of the Service's failure-- winning on a technicality.
Concert	 <p>I finally saw Bruce Springsteen in concert! Karen has been a devotee forever, raving about Springsteen concerts attended in her youth. I like his music but hadn't seen him perform live. This year we splurged on floor seats at the Staples Center in San Francisco. Great show, and I am now a super fan too!</p>
Family Experience	<p>Karen and I celebrated our older daughter Sophie's graduation from Berkeley's Master of Architecture program with her sister, aunt, and several close family friends for 3 days of wine-tasting, delicious food and hearty laughter in Paso Robles! Sophie is also Sebastian's cartoonist. She now works for Hart Howerton in San Francisco. Oh, and the wines? Our two new favorites: RN Estate and Benom, both owned by French winemakers – le vin est magnifique!!</p> 
Luck	<p>What's the difference between good luck & bad luck? My cardiologist sent me for a routine test last winter that landed me in the hospital overnight: I had a stent inserted for 80% blockage in the middle artery. I'd been completely asymptomatic. Karen went for a routine mammogram that revealed easily-treatable breast cancer. Because we filled our health insurance deductible so quickly this year, Karen threw in long-needed ankle tendon surgery to boot. We're thinking of our health this year as good luck.</p>
New Addition	<p>Zoe Carlson joined us last winter, giving me and Karen great assistance. Many readers of <i>The Newsletter</i> have spoken with Zoe, and already know how charming, helpful and organized she is. Sebastian thinks she's great, too.</p> 
Tea	<p>Think I'd skip an ode to an obscure tea this year? Think again! My love of tea shall go on and on into eternity – kind of like my love of tax law. My favorite this year? Milk Oolong. Oolongs are "semi-oxidized," halfway between green and black tea; this one tastes fruity, sweet, tropical. Can I say a tea tastes "vigorous?" This one is.</p> 
TV show	<i>Shōgun</i> is an immersive look at the very foreign culture of feudal Japan. Honor, sacrifice, virtues, evil, and strategy all rolled up in a sumptuous visual feast. I still can't tell whether I admire or detest the Shogūn.

Sauerbraten (German Beef or Pork Pot-Roast)

Calling all German-food lovers: if you've never had sauerbraten (the German equivalent of corned beef), then you really owe it to yourself to give this family favorite a try. The recipe is Karen's Oma's—a perfect, cold-weather Sunday dish. Since the beef needs marinating, plan ahead.

1 4-6 lbs. beef rump roast or eye round pot roast (you can also use a pork shoulder/butt roast)

For the marinade:

1 ½ cups water; 1 ½ cups white or red wine vinegar

¼ cup sugar

1 clove garlic peeled; 2 bay leaves; 5 whole cloves; 10 peppercorns; 10 juniper berries; 6-8 sprigs fresh parsley

2 carrots, sliced lengthwise and in half

2 celery stalks, sliced in half

1 large onion sliced thinly

For braising/cooking and the gravy:

2 TBS flour mixed with 1 tsp black pepper & 1 tsp salt

8-12 oz. diced bacon

2-4 cups beef, chicken or vegetable stock, as needed; if you run out, you can substitute water (or wine) for stock

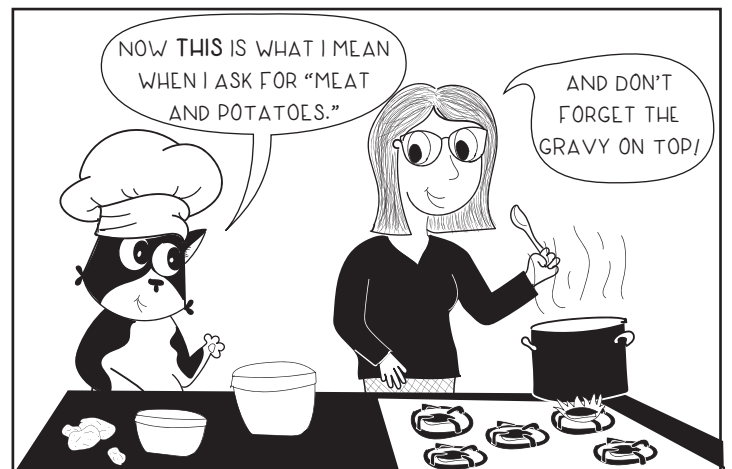
1 cup red wine

¼ cup cornstarch mixed with 5-6 TBS wine

Instructions:

- Combine water, vinegar, sugar, onion, carrots, celery and all spices in a saucepan and bring to a boil, then remove from heat and cool. Pour marinade over the beef in a large bowl, or put beef and marinade into a large, heavy zip-lock bag. Refrigerate and let marinate 1 – 3 days.
- Remove meat from marinade. Strain marinade so that all herbs, spices and veggies are removed; set strained marinade aside. Towel dry the beef. Roll beef in flour, salt & pepper mix.
- In a large soup pot, fry bacon until well-cooked; remove bacon from fat, drain on paper towels and save. Into hot bacon fat, place beef and brown on all sides over high-medium flame. This will take approximately 12-15 minutes. You may need to add a few tablespoons of olive oil. Use a splatter guard if you have one as this process will throw up a lot of oil. Don't worry if some beef bits stick to pan and burn; this will enhance flavor of gravy!
- When beef is browned, remove beef from pan, and immediately deglaze (scrap up meat and burned bits on bottom) with 1 cup of red wine (the better the wine, the better the gravy). Return beef, bacon bits, and strained marinade to pot, and add enough stock to just cover the beef. Bring liquid to a boil, then reduce heat to low, cover pot with lid, and simmer for 2-2 ½ hours. If meat becomes uncovered by liquid during this time, then add more stock, wine or water until meat is just covered again. After 2-2 ½ hours remove lid, raise flame to medium, and simmer another 30-45 minutes, or until meat is soft and falls off at the edges when pierced with a fork. Remove meat to platter, cover, and keep warm in very low-temp oven.
- To make gravy: mix cornstarch and wine together into smooth paste. Bring cooking liquid to boil, reduce flame to low medium and slowly drizzle in cornstarch to thicken gravy to desired thickness, stirring constantly, about 6-8 minutes. Slice beef into 1-inch thick slabs, spoon some gravy over meat, and pour rest of gravy into gravy boat for potatoes or spaetzle (German noodles). Also serve with German hot red cabbage. **So lecker (so delicious)!**

Serves 6-10



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 result. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends, or family.

(818) 889-8080
FaucherLaw.com

Chapter 7 Personal Bankruptcy and the Case of: **What Happens to Cars in Bankruptcy?**



With the devastating fires that spread through LA and Ventura counties earlier this month, I know it hasn't been a Happy New Year so far for some readers. Why is California simultaneously such a wonderful and horrible place to live? But, since I prefer asking questions I can answer, inside find my annual **Best of 2024** list which can answer – among other questions – what my favorite tea this year was. **The Newsletter's** main article focuses on **what happens to cars in bankruptcy**. After all, they are usually one of our most valuable assets after houses and retirement accounts. I discuss what rights a Bankruptcy Trustee has to a debtor's car, and how banks holding car notes respond to a bankruptcy. Finally, Karen describes how to cook **German pot roast (Sauerbraten)** – a wonderful Sunday dinner at this cool time of year.