

OFFICE OF THE CHAPTER 13 TRUSTEE – WESTERN DISTRICT OF MISSOURI

2021 TAX REFUNDS

Richard V. Fink, Trustee



Below are the procedures I will follow for 2021 Tax Refunds:

1. Debtors generally must provide the 2021 Tax Returns to my office. I will send out a letter requesting a copy of the tax returns in most cases in January 2022.
2. My staff will review the 2021 Tax Returns for:
  - a. Non-exempt equity in tax refunds (pre-petition asset for the year in which the case was filed);
  - b. Understatement of income or disposable income (any year);
  - c. Delinquency and amortization issues (any year);
  - d. Gambling (any year);
  - e. Proper reporting to the trustee regarding business cases (any year).
3. If the total of all tax refunds (federal, state and local) is **\$3,500.00 or less**, and the plan or a court order does not require the turnover of the refunds to me, **the debtor does not need to file a motion to retain** the refund with Court.
  - a. However, if the debtor is delinquent, or the Chapter 13 plan no longer amortizes, I will expect the refund to be sent to me to either cure or mitigate the issues.
  - b. If for any reason my staff believes that, even though the refund is \$3,500.00 or less, that there is action needed regarding the refund, I will send you a letter requesting that action be taken.
4. If the total of all tax refunds (federal, state, and local) is **\$3,500.01 or greater**, and the debtor wishes to retain the refunds, **the debtor likely will need to file a motion to retain** with the Court.
  - a. The motion must detail the reasonable and necessary expenses not already listed on Schedule J for which the funds are required.
  - b. I may object to the motion for reasons including, but not limited to, the following: there is an understatement of income, there is non-exempt equity in the tax refunds that is not covered in the plan, the debtor is not current in plan payments or the plan no longer amortizes.
  - c. There are certain instances where even if the amount of the refund is \$3,500.01 or greater the debtor need not file a Motion:
    - The confirmed plan pays a 100% dividend to the non-priority unsecured creditors;
    - The case was filed in 2021 and the non-exempt equity is accounted for; or
    - The case was filed prior to 2021 and the tax refund is accounted for as income on Schedule I.
5. If the debtor is required to turn over all or a portion of their 2021 tax refund, please instruct the debtor to remit those funds as follows:
  - a. Physical checks: to the lockbox, PO Box 1839, Memphis, TN 38101-1839. Identify the item as "2021 Tax Refund."
  - b. Electronically: both ePay and TFS have an option to identify that the payment is from a tax refund.
6. I encourage debtors to remit their tax refunds, or a portion thereof, to me to cure or reduce delinquency or amortization issues. If a debtor is sending in their refund for one of these reasons, please have them identify the payment as such.
7. Debtors should not spend their tax refunds until they have reviewed their situation with their attorney.
  - a. If a motion with Court is necessary because the refund is \$3,500.01 or greater, debtors should wait to spend the refund until an Order is entered and is final allowing them to retain the refunds.
  - b. If the debtor is delinquent, or the Chapter 13 plan no longer amortizes, the debtor should not spend the tax refund without approval of the Court or my office.