

OFFICE OF THE CHAPTER 13 TRUSTEE – WESTERN DISTRICT OF MISSOURI
2018 TAX REFUNDS

Richard V. Fink, Trustee



Below are the procedures I will follow for 2018 Tax Refunds:

1. Debtors generally must provide the 2018 Tax Returns to my office.
 - a. If the debtor is below median and he or she has satisfied the applicable commitment period by December 31st, 2018, I may not require the debtor to provide the tax returns to my office;
 - b. If the debtor is paying 100% to the non-priority unsecured creditors, I may not require the debtor to provide the tax returns to my office;
 - c. However, I still may request that the tax returns be provided to me, e.g. business cases.
2. My staff will review the 2018 Tax Returns for:
 - a. Non-exempt equity in tax refunds (pre-petition asset for the year in which the debtor filed);
 - b. Understatement of income or disposable income (any year);
 - c. Delinquency and amortization issues (any year);
 - d. Gambling (any year); and
 - 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. 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. Moreover, if after reviewing the tax returns, I think that a request to keep the refund is necessary, I will write a letter requesting that further action be taken, e.g., the refunds sent to me, a letter to me requesting retention of the refunds, or a motion filed with the Court requesting retention of the refunds.
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 will likely need to file a Motion with Court.
 - a. The Motion must detail the reasonable and necessary expenses not already provided for 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: the debtor is understating his/her 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 at the current plan payment.
 - c. However, if the refund is accounted for as income on Schedule I and there is no non-exempt equity issue (either the debtor has exempted the asset on Schedule C or the case was filed prior to 2018), a Motion is not required. Otherwise, a Motion to Retain is required.
5. If the debtor is required to turn over all or a portion of his/her 2018 tax refund, please instruct the debtor to remit those refunds as follows:
 - a. To the lockbox, PO Box 1839, Memphis, TN 38101-1839, and identify the item as "2018 Tax Refund."
 - b. If the debtor pays electronically, both ePay and TSF have a selection to identify that the payments is for 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. When sending these funds in, please identify in writing that the funds are intended for one of these purposes.
7. Debtors should not spend their tax refunds until they have reviewed the situation with their attorney. If a Motion with Court is necessary because the refund is \$3,500.01 or greater, debtors need to wait until an Order is entered and is final allowing them to retain the refunds. Likewise, if the debtor is delinquent, or the Chapter 13 plan no longer amortizes, the debtor should not spend the tax refunds which total \$3,500.00 or less without approval of the Court or me.