

OFFICE OF THE CHAPTER 13 TRUSTEE – WESTERN DISTRICT OF MISSOURI
2016 TAX REFUNDS

Richard V. Fink, Trustee

Below are the procedures I will follow for 2016 Tax Refunds:

1. Debtors must provide the 2016 Tax Returns to my office except in the following situations:
 - a. If the debtor is below median and he or she has satisfied the applicable commitment period by December 31, 2016, it is not necessary to provide the tax returns to my office.
 - b. If the debtor is paying 100% to the non-priority unsecured creditors, it is not necessary to provide the tax returns to my office.
 - c. However, I still may request that the tax returns be provided to me.
2. My staff will review the 2016 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); and
 - d. Gambling (any year).
3. If the total of all tax refunds (federal, state and local) is \$2,500.00 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 with Court a motion to retain the refund. 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 tax refund is necessary, I will write a letter requesting that further action should be taken, e.g., the funds sent to me, a letter to me regarding retaining the tax refunds, or a motion filed with the Court.
4. If the total of all tax refunds (federal, state, and local) is \$2,500.01 or greater, and the debtor wishes to retain the refunds, the debtor must file a motion with the Court.
 - a. The motion must detail the reasonable and necessary expenses not already provided for in the 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 they have exempted the asset on Schedule C or the case was filed prior to 2016), a motion is not required.
5. If the debtor is required to turn over all or a portion of her/his 2016 tax refund, please instruct them to remit those refunds as follows:
 - a. To the lockbox, PO Box 1839, Memphis, TN 38101-1839, and identify the item as “2016 Tax Refund,” or
 - b. If the debtor pays electronically, both ePay and TFS have a checkbox to identify that the payment is for a tax refund.
6. I encourage debtors to remit their tax refunds, or a portion thereof, to me to cure or reduce a delinquency or an amortization issue. 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 refund until they have reviewed the situation with their attorney. If the refunds total \$2,500.01 or more, the debtor must wait until an Order is entered and is final before spending 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 \$2,500.00 or less without the approval of the Court or me.