

MESSAGE from the PRESIDENT



SPRING HAS SPRUNG AND LIFE AFTER TAX SEASON HAS BEGUN. It may be a simple little rhyme, but how true it is. I hope you all had a successful tax season this year. There were probably some high points and I'm sure you all had some rough times as well. For many of us, the year started very quickly with the new deadline for filing W2's and 1099's. Then of course we had to field client questions

on the delayed refund distribution time frames the IRS and NJ started even though we thoroughly explained it to our clients when we sent our letters out and met with them.

The season kind of went into a normal mode for most until late March when the always late K-1's arrived even later than normal. So, it felt like a stop and go tax season this year, and I am sure preparers are all glad there is a little time to slow down now.

But the slowdown is not for everyone. What I can tell you is the New Jersey Chapter is in a Go Go Go mode already. The Chapter held two very successful seminars in May and June. **The NATP National Conference** is within driving distance in Washington DC and coming up at the beginning of August! There are additional Chapter seminars planned for the remainder of the year as well. Our chapter is once again buzzing with activity.

There is an additional national event this year that I would like to highlight. On **September 18th and 19th**, NATP will be holding a 2-day **Tax Forum and Expo** in Atlantic City. Right here in New Jersey! The last time the event was held in Atlantic City, there were almost 800 attendees, with a substantial percentage coming from New Jersey. We are hoping we can duplicate and even exceed our home state attendance at this event this year. Please keep a lookout for details. I am sure it will be an exciting time for all with plenty of education and even more opportunities to network and have fun together.

The Chapter Board of Directors is very thankful for our members' participation throughout the year. I truly believe that we have some of the best members in the country and we would like to reach out to ask you for your help.

Our board needs additional members. If you have ever been interested in volunteering your time to an organization, please consider NJ-NATP. We do put a fair share of time into our work but love the work we do. Being on the Board is not about being the best tax preparer. It's ALL about helping the community of tax professionals in New Jersey with great education, the opportunity to network, and to have a little fun at the same time. I encourage you to reach out to see what opportunities are available to you by being a member of the Board or assist at a seminar.

As I have said in past writings, I consider it a privilege to serve on the New Jersey Chapter's Board and thank all the directors for their time, energy and support. I also thank you, the membership of NJ-NATP for your continued support of one of the best chapters in the country.

I wish you continued success and hope to say hello to you at an event this year.

Tom

Thomas Watkins, EA, has been a NATP member for 19 years and is the owner of Eagle Financial, an accounting and financial services company located in Totowa, NJ. He can be reached at: eaglefinancial@gmail.com.

NJ CHAPTER WEBSITE

Our Chapter website has recently received a fresh look with the new NATP Logo. NATP has included a green triangle as part of this logo, which represents the three primary focuses of value to you as a member — **Content Expertise, Professional Connections, and Advocacy**. When the values combine, the result is excellence; for you and for your clients.



As a Chapter and extension of National, we adopt and share these focuses and refine them to meet the needs of our NJ Chapter members. Our NJ Chapter website (www.njnatp.com) is just one of the ways we strive to accomplish this. Our website is updated regularly and is also a great reference for current events, resources and information on our Chapter.

Need CE or looking to stay atop hot issues in NJ? Visit our **Upcoming Seminars page**.

Doing research or looking for a past/current newsletter? Visit our **Newsletter page**.

Looking to get involved, help out, or be heard? Visit our **Board Meetings page**.

Need to know who's on the board? Visit our **Board of Directors page**. What does membership mean and provide? Visit our **Ethics page** and **Membership Page**.

Simply need to get in touch with our Chapter? Visit our **Contact Us page**.

Please visit our page and remember to check back regularly. If you have any comments or suggestions, please feel free to reach out to me directly.

Joshua C. Melum, EA has been a NATP member since 2012. Josh is the owner of JCM Tax Service located in Cream Ridge, NJ providing Tax preparation and a variety of business services. He can be reached at josh@jcmtaxservice.com

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From the Editor

BY TERESA MARRON, CPA



FIRST AND FOREMOST, my apologies/condolences for any article or author misrepresented in my flagship NJ NATP Newsletter as editor-in-chief! Let this be no tarnish to the previous editor, Marc S. Standig, EA who has so carefully tried to guide me through my first process! I would also like to thank the many newsletter authors came to my aid with so many interesting topics!

I was appointed a member of the board in January of this year. I have to say that I am really enjoying it and have enlarged my network greatly with people who are knowledgeable and care about our profession. We have a great group! The Board will have elections in October. Please consider becoming a board member, it is very rewarding!

As you may know, the NATP National Conference is coming up in August. NJ NATP is very busy preparing a great experience for our NJ members that attend. Plans are being made to get us all together for a meet and greet so that we can get to know each other better! Please check our own NJ NATP Facebook for updates.

Teresa Marron, CPA resides in Toms River, NJ. She has an accounting and tax practice in the area since 2001. She has been practicing accounting and tax preparation for over 30 years. Her specialty is setting up accounting systems on QuickBooks® software as a QuickBooks Pro Advisor. She can be reached at tmarroncpa@gmail.com.

HOW TAXING WAS YOUR SEASON????



TAX SEASON BEGAN SOMEWHAT SLOWLY- January was not a terribly busy month for me, until the end of the month. Several estates needed to be finalized, but there was no tax information available yet. But, then February arrived with the usual clients who wanted their refunds. I have very few clients with EIC, but quite a few with Child Tax credit, and AOTC. *Wasn't it amazing how much longer the returns took this year, with all the due diligence forms to fill in??*

February moved along fairly smoothly; several of the estates could now be finalized; clients were coming in steadily, and I was keeping my head above water, until the craziness started! Clients coming in who had cleaned out their entire 401-K for reasons they thought were worthwhile, but did they call to discuss it first? Of course not. 1099-A's and 1099-C's, which made me very glad that I had taken those courses when they were offered at the NATP Tax Forum and National Conference, It was a tax season that warranted so much more research—thanks to NATP research, as well the tax groups that are on Facebook, there was help out there.

The remainder of the tax season was more stressful than normal—complete with company mergers and stock options; charitable remainder trusts—it seemed endless. On top of it all, a nasty bout with shingles in March was the icing on the cake!

By April 18th things were winding down, quite a few extensions, but, like many of you, I needed to take some time to unwind before starting on them. I haven't been able to spend as much time as I would like down the shore yet, but I'm looking forward to that time soon, with my kids and grandkids. Then, there is the planning ahead for National Conference in Washington DC in August, as well as the many educational events planned by NATP, as well as the New Jersey Chapter. Watch the website, Facebook, upcoming newsletters, as well as the biweekly Chapter News for all the scheduled events. If this tax season is a harbinger of the future, we will need NATP more than ever.

Hope to see many of you soon—in Washington DC or at a New Jersey event.

Jean Millerchip, EA, CFP®

Jean Millerchip, EA, CFP® is in private practice in Nutley, NJ. Jean has held various positions on the New Jersey Chapter Board and has been President several times. She has just finished serving a full 9 year term on the National Board and has served as the National President and National Vice President. Jean can be reached at jean.millerchip@gmail.com

member in the SPOTLIGHT

BY TERESA MARRON, CPA

WILLIE LAU, EA is the longest standing member of the NJ NATP! He has been a member since 1984, so that makes it 33 years! We recognize Willie for his leadership as a Past President. He was one of the very first to shape our face as a founding member of the NJ NATP Chapter!! His valued input has been appreciated by members of the tax practitioner community and he continues to be a driving force in our Chapter. A very warm and appreciative thank you goes out to him for his time, talent and efforts!



TAX TIP OF THE QUARTER

BY MARILYN H. AYERS, CPA

NJ Changes & Updates



Effective January 1, 2017, the New Jersey Estate Tax exemption increased from \$675,000 to \$2 million for the estates of resident decedents dying on or after January 1, 2017. Beginning January 1, 2018 no New Jersey Estate Tax will be imposed on the transfers of estates of resident decedents. However, New Jersey Inheritance Tax has not changed. NJ Inheritance Tax Returns are due within eight months of the date of the decedent's death. In addition, forms L-8 or L-9 may still be required for waivers. **See NJ website for additional information.**

Property Tax Reimbursement Program applications (Senior Freeze) are due June 1st—Remind your clients to get those forms completed timely. The 2016 income limit remained at \$87,007. Of course that limit was lowered to \$70,000 in the State Budget last summer and is expected to follow the same course this year. *Did you know that if clients did not receive their "blue booklet" or received a PTR-1 instead of PTR-2, you may call the Tax Practitioner Hotline on their behalf?* Of course, that number is for our use only and not our clients!

New Jersey Use Tax form ST-18 is due May 1st. This form is filed annually by any New Jersey Business that is not required to collect NJ sales tax from customers but purchases items for use in their business without paying New Jersey Sales Tax. If the use tax liability exceeds \$2,000 for three previous calendar years, you must file quarterly ST-50 returns instead and pay the use tax quarterly.

Marilyn H. Ayers, CPA is in private practice in Brick, NJ. Marilyn has been a member of the Board for 12 years and is a past president of our Chapter. The New Jersey Chapter earned Chapter of the Year Award at the National Conference during Marilyn's tenure. Marilyn may be reached at: marilyn@mhacpanj.com.

LIMITED PARTNERSHIP INCOME AND THE OTHER RETIREMENT INCOME EXCLUSION

BY ROBERT D. FLACH



HERE IS SOMETHING FOR OLDER INVESTORS TO THINK ABOUT when it comes to determining the types of investments they purchase.

The "**Other Retirement Income Exclusion**" - which allows taxpayers who are age 62 or older on the last day of the year and whose "Total Income" reported on Line 26 of the NJ-1040 is \$100,000 or less (this \$100,000 limit is the same regardless of your filing status) to deduct on Line 27(b) any unused portion of the Pension Exclusion, allowing a deduction of up to a combined total of \$20,000 for married couples, \$10,000 for Single filers, and \$15,000 for Head of Household filers - is only available if "*your income from wages, net profits from business, distributive share of partnership income, and net pro rata share of S corporation income totals \$3,000 or less*".

On the federal return, individual components of partnership income are reported based on the source of the income - interest and dividends and capital gains earned by partnership and passed through to partners on Schedule K-1 are reported as interest and dividends (Schedule B) and capital gains (Schedule D). But this is not the case on the NJ-1040.

According to NJ Publication GIT-9P (Income from Partnerships) -

"Partnership income is reported as one category of income on the partner's New Jersey income tax return rather than in respective categories. For example, interest, dividends, rents, gains, or losses earned by a partnership are combined with Federal ordinary income (loss) to arrive at New Jersey partnership income (loss)."

So investment income is combined with business income when reporting "Distributive share of partnership income" on the NJ-1040.

Many taxpayers purchase limited partnership investments as a source of investment income the same way they purchase mutual fund shares. These taxpayers are not involved in any way in the business activity, if any, of the limited partnership. They consider income from these limited partnerships the same as dividends from mutual fund investments. The income from these limited partnerships is in no way, shape or form "earned income".

It seems clear to me that the \$3,000 income limitation for claiming the Other Retirement Income Exclusion was intended to apply to earned income only, and not investment

income. However investment income from limited partnerships is treated as earned income in this situation.

I had a client over age 65 with no retirement income, and no earned income, who was denied the \$10,000 Other Retirement Income Exclusion because he had "distributive share of partnership income" from limited partnership investments just slightly in excess of \$3,000.

As a tax preparer I personally hate (yes - the word is hate) dealing with the K-1's of limited partnership investments. The reporting of K-1 income on federal and state returns is often more time-consuming, and certainly more agita-producing, than "traditional" types of investment income like interest, dividends, and capital gains - and the cost to the taxpayer for the additional work involved can actually equal or exceed any special tax benefits of this type of investment. The NJ tax treatment of limited partnership K-1 income is just another reason to hate these investments.

I firmly believe that brokers sell these investments to their clients because they provide a better commission, or are instructed to do so by their employers, and that there are alternative mutual fund investments that would provide similar income and tax benefits.

That said, from a strictly net financial cost benefit perspective, taxpayers over age 62 who would otherwise be able to claim the "Other Retirement Income Exclusion" should avoid limited partnership investments, so as not to jeopardize this potential \$10,000, \$15,000, or \$20,000 state tax deduction.

DO YOU AGREE?

(Continue the discussion on the NJ-NATP Facebook® page.)

*Northeast PA resident Robert D. Flach has been preparing 1040s since 1972, and has been a member of NATP since 1987 (and a founding member of the NJ chapter). He has been writing the popular tax blog **THE WANDERING TAX PRO** (<http://wanderingtaxpro.blogspot.com>) since the summer of 2001, inspired by an NATP National Conference seminar, and has created and writes the websites **THE TAX PROFESSIONAL** (<http://thetaxprofessional.webs.com>), **FIND A TAX PROFESSIONAL** (<http://www.findataxprofessional.com>), and **A TAX PROFESSIONAL FOR TAX REFORM** (<http://www.taxprosfortaxreform.com>).*

The Charitable Chapter

BY MARC S. STANDIG, CMA, EA

YOUR NEW JERSEY CHAPTER of the National Association of Tax Professionals supports several organizations that are trying to make New Jersey a better place. The Valerie Fund has been the recipient of our Annual Charity Auction proceeds for the last few years. **The Valerie Fund** is situated in Maplewood, New Jersey and supports research for childhood cancers and blood disorders. **The Midland School in North Branch**, New Jersey has received **Box Tops for Education**. About four years ago, the concept of collecting the Box Tops was brought to the attention of the Chapter Board. Joyce Skerlanitz had suggested the Midland School as the donee organization. The Midland School provided programs and living arrangements for special needs children and young adults. Jaimee Hammer mentioned our collection efforts at our January meeting, the day after our Board meeting and we started our collection with an instant donation of over four hundred box tops! This program is a great talking point for you and your clients. It can get your clients involved with you throughout the year and help solidify the bond between you and your clientele. The box tops help the Midland School and the collection of the box tops helps our members. Over five years ago immediate past president Mario Tripaldi had suggested the Chapter help a disabled Boy Scout attend summer camp. **Scout Camp** is not, repeat not, a luxury experience. The scouts learn survival and camping skills. They also participate in community service programs. The young scouts learn to become productive individuals in society through a variety of activities while at camp.

Mario's idea was to help the Scouts overcome financial obstacles and earn their Eagle badges. The Board agreed with this idea and to date the Chapter has sent over fourteen disabled and financially needy young scouts to camp. The program resides with the Monmouth Council and bears the name: NJ-NATP Campership. Through the different community betterment programs, the New Jersey Chapter is trying to not only make New Jersey a better place, but to be an organization that you can be proud to be affiliated with.

Marc S. Standig, CMA, EA earned his Certified Management Accountant certificate while employed as an assistant controller of Citizens Jewelry of Atlanta, GA. He had eventually migrated back to New Jersey to work with his father and uncles in North Bergen. One of his accounting instructors said he seemed to be talented when it came to taxation and had suggested the Enrolled Agent license. So it came to be and Marc S. Standig started working on individual tax returns in Monroe Township, New Jersey (okay, after Princeton, Mercerville, Hamilton, East Windsor, Hightstown) and can be reached at standig@yahoo.com.

Welcome New Members

In the first quarter of 2017, the NJ Chapter welcomed 10 new members:

DIANE SIMPSON
JONATHAN CALGARY
FRANK RAMSON
JAMES COLITSAS
CARL SCHUENEMANN
AMANDA FOOTE
STACY RUSSO
JOSE SELAYA
JEAN-RAYMONS EXILUS
GLENIS MOJICA

Kindly forgive any inadvertent misspelling of names.

Please join the NJ Chapter at any or all of our many education events. If you ever have any questions, the contact numbers of the NJ Board of Directors are always on the back page of the newsletter.



BANKRUPTCY PRIMER

BY DAVID A. SEMANCHIK, ESQ

MOST PEOPLE BELIEVE bankruptcy is the cure all for your financial problems. In many cases, it is, however, there are some recurring problems that must be addressed before considering bankruptcy. They include the following

1. What can I lose? Usually, most bankruptcies filed in New Jersey are filed in Federal Court. This means that you will be using the exemptions allowed under federal bankruptcy law. An exemption is the amount of equity that you can keep when you file bankruptcy. For example, if you are married and own a home worth \$300,000 and you owe \$250,000 to the bank, you have \$50,000 of equity in your home. The question is, if you file bankruptcy, can you keep your home or will the bankruptcy trustee sell your home, take the equity and give it to your creditors. Under current federal bankruptcy law, an individual can exempt \$23,675 of equity in their home. So, if you are married, you can exempt up to approximately \$45,950 of your \$50,000 of equity in this example. *Does this mean you if you file you are in danger of losing your home?* You see, if there is nonexempt equity in this example a trustee could sell the home, payoff the mortgage, write you a check for \$47,350 and give the rest of the equity to your creditors. But would he in this example? The answer is no because the trustee will consider the cost of selling the home which is generally 10 percent of the sale price. So in this example, the trustee would figure that the cost of sale is \$30,000, meaning, he would only have \$270,000 to work with (300,000 minus 30,000 equals 270,000). After he pays off the mortgage of \$250,000, the trustee would only have \$20,000. You can exempt up to approximately \$47,350, meaning the \$20,000 would go to you and there would be nothing to give to creditors. Therefore, the trustee would not touch your home and let you keep it. The same type of analysis goes into everything you own. For everything you own, there is a corresponding exemption. Sometimes there is a 100 percent exemption, for example, an individual retirement account (IRA) is generally exempted entirely, meaning, if you have \$200,000 in an IRA and you owe \$50,000 in credit card debt, you could file bankruptcy, discharge your debt and keep your retirement account. That's why it makes no sense to raid your IRA to pay your credit cards. I cannot tell you how many times people have sat in front of me telling me they did just that, they incurred more debt and now still have to file bankruptcy and that they have no retirement plan.

2. Waiting too long before filing, is another big problem in bankruptcy. The example I raised above in item number 1, concerning the use of exempt assets to settle some debts and leaving more unsettled debts when all debts could have been discharged in bankruptcy, is very common. Most folks just think things will get better. They may hope a better job will come in or they may win the lottery or the creditors will eventually give up. In the meantime, they fall deeper and deeper into debt and their credit rating is destroyed and it takes years to recover. I have had countless individuals who were advised to file bankruptcy more than a year ago and still have not filed. However, those that have followed my advice and filed, have found that life after bankruptcy is much better. Not only do you get rid of your debt, your credit score also recovers rather quickly. I have had people tell me they got credit cards within thirty days of receiving their discharge or buying a new car within ninety days of receiving their discharge or buying a home within three years of receiving their discharge. The people who procrastinate and delay the bankruptcy filing, also delay their own financial recovery. This is a good example of having to take one step backwards before you can move ahead. Often times filing bankruptcy is the quickest and best way to improve your credit score and your financial position in life.

3. Bad advice from well meaning friends, relatives and acquaintances is another pitfall actually preventing you from filing bankruptcy. It always amazes me how much everybody knows about everything. In fact many people should be prosecuted for practicing law without a license. One of the biggest misconceptions today is that most people cannot get a discharge now that the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA)" were enacted. While this new law made significant changes in federal bankruptcy filings, it has not prevented people from discharging their debt if they are qualified. One of the biggest changes is the use of the "Means Test" which sets an income limit based on the size of your family and the state in which you reside. Under current law, for instance, if you reside in New Jersey and you have a family of four, the means test says that if your gross income exceeds \$114,886 then you must go through the means test to see if you qualify for a Chapter 7 discharge. The pitfall here is that your friends, relatives and acquaintance are wrong when they say if you earn more than \$114,886 you cannot get a chapter 7 discharge. It just means I have to run the numbers through the means test. The means test looks at your gross income first. If you exceed the income level for your family size and state then we start reducing your income by the following: income taxes, living expenses as

determined by IRS standards, car and mortgage payments over the next sixty months, insurance payments, required income deductions such as retirement contributions and pension loans as well as a number of other relevant factors. You can see that with all these deductions from your gross income, someone with a family of 4 earning \$125,000 per year could very well meet the means test and qualify for a chapter 7 discharge. I usually look at the individual's net monthly at our first meeting to make an initial determination of whether someone qualifies for a chapter 7 discharge. If I am uncertain or if it's going to be a close call, I will usually charge an upfront fee to do the means test. If you qualify for a chapter 7 discharge or choose to file a chapter 13 instead (to be explained later herein) you get a credit of the upfront fee against the final fee. Doesn't it make sense to at least see if you qualify for a chapter 7 discharge if you are a higher income earner?

4. Not being honest as to your income, expenses, assets and liabilities is another pitfall in bankruptcy that could land you in jail for five years, paying a fine of \$250,000 and not ever receiving a discharge forever. It always amazes me when people come to visit and start telling me they earn this much but any other income they earn is "under the table"; or they own a car or real estate but it's in somebody else's name. I have to remind people that while there may be an attorney client privilege preventing me from disclosing the contents of our conferences, I cannot allow someone to swear to the truth of matters contained in their bankruptcy petition if I know it's not true. I am not going to jail with you. All you have to do is be open and honest with all your financial details. There is always a legitimate way to handle your case. The worst case scenario is that you may have to give something up in order to get a discharge of your total debt. For example, you may have a classic car that you value at \$25,000. Everyone gets an approximate \$11,850 wildcard exemption you can apply to any assets (assuming you have not used up your entire home residence exemption mentioned above). Let's say you have \$1000 in the bank and you use your wildcard to protect it. You still have \$10,850 of the wildcard you can use on the classic car. That means that you still have \$14,150 of nonexempt equity in the classic car. If you filed bankruptcy, the trustee would likely take the car, sell it, write you a check for \$14,150 (for your wildcard exemption) and give the rest of the money to the creditors (after his fee is deducted more on that later). Now that you know that, you decide to transfer the car into your friends name and not tell your lawyer about the transfer and file bankruptcy so you can discharge your \$50,000 in credit cards. Based on this set of facts, you could be facing serious a threat of bankruptcy fraud since there are at least two places on the petition you lied on. First, you didn't list the car on schedule B (personal property) as an asset of yours being held by another and second on the Statement of Financial Affairs as an asset transferred by you in the two years prior to filing bankruptcy. Going to jail, paying fines and never ever getting a discharge for the rest of your life all because you wanted to protect \$14,150 when you were getting a discharge of \$50,000. Was it worth it? No, of course not. A better way to handle the problem is to disclose the asset and discuss the nonexempt equity with the trustee through your attorney. Quite possibly, the trustee would accept less than the nonexempt amount of the car and release the asset. In other words, the trustee might take \$7500 for the \$14,150 equity just to get the deal done and saving him the hassle of selling the car. There is always a way to deal with the facts in your case. The worst case scenario is that you have to give something small up to get the great benefit of a discharge of debts.

5. Failing to hire lawyer for counsel early on in the process. As you know, when you owe others money and you are not paying them as you promised, they start calling you constantly in hopes that you will cave in and pay them something. So you do and everything is ok until next month when they start calling again and you make another deal to stop the calls. As I am writing this, I just got a call from a nice young couple trying for two years to settle their debts. Ironically, he withdrew over \$30,000 from his 401k to pay some credit card debt over the last two years but he still owes over \$20,000 and now he has decided to file bankruptcy. In other words he flushed down the toilet over \$30,000 of his retirement money and still needs to file. If he had called me two years ago he would have saved himself over \$30,000 and been a lot better off today. This is a serious pitfall, that will cost you a lot. On average, a person will pay \$2,000 to file bankruptcy. Why pay another dime to your creditors when you can pay me \$2000 and you are done with the debts? You may end up paying me over time and I cannot file until you are paid in full but at least you know that the money you are paying me is going to a good cause: getting you financially free.

6. The fallacy that income taxes are not dischargeable in bankruptcy. Income taxes are dischargeable as long as you have filed your tax return. I handle many cases where people owe income taxes that would have been dischargeable if you filed your income tax returns. Some people do not file their returns because they can't pay the taxes due. Huge mistake. Income taxes are dischargeable if three

NJ NATP MEMBER ELECTED TO THE NATIONAL BOARD!



CONGRATULATIONS TO OUR OWN **JAIMEE HAMMER!**

Jaimee has been on the New Jersey Board and has served as our President.

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BANKRUPTCY PRIMER

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years have passed since the date the taxes have been assessed. Assessment of taxes occurs when you file your tax returns. However, the IRS will assess taxes against you if you fail to file your returns when they file a "substitute for returns". In other words, when you earn income as an employee, your employer will file a W-2 with the IRS at the end of the year. If you are self employed, the people who paid you money will file a 1099 with the IRS. In any event, the IRS knows how much you make, every year. If you do not file a return, the IRS will file a return for you (a substitute for a return) but they do not give you any deductions so you end up owing more taxes than you would have if you filed a return yourself. Worst though is that if you had filed your own return and three years have passed since the tax was assessed against you, and you then file a bankruptcy, the taxes would have dischargeable. However, if the taxes are assessed against you as a result of the IRS filing a substitute for return, the taxes are never dischargeable. You can always file your return after the IRS files the substitute for return and the three year statute would start running at that point; but that would delay the filing of bankruptcy by three years if you intend to discharge them in bankruptcy. Often times you cannot wait that long. So the lesson is that you should always file your returns whether you can pay the tax or not. One strategy would be to file bankruptcy now and discharge your dischargeable debt (like credit cards, etc.) and after you get out of bankruptcy file an "offer in compromise" with the IRS and get rid of the taxes in that manner.

7. People are embarrassed by the thought of filing bankruptcy. First, please know that you are not a bad person if you are in debt over your head. After all, the American education system, not until recently, never taught any of us about finances. We were all taught how great America is (and it is still the most awesome place to live) but the system never taught us how to manage money. We were taught that that America is the land of opportunity and maybe you had to borrow to get ahead. We were taught that it was ok to borrow money for our home and cars but somehow that teaching got perverted into borrowing money for our life style as well. We started to believe it was ok to borrow money for our clothes, home improvements and vacations, regardless of how much money we earned. This mindset has led America to a multi trillion national consumer debt that will be difficult if not impossible to pay back. We now owe our future to China and the likes. Well, all is not lost, however. Back in England before America came about, there were debtor prisons for those who could not pay back their debts. Thank God that has all changed. Federal bankruptcy laws provide you with the potential of a "clean slate". Bankruptcy is a legal route through which you can get a "fresh start" in life, without debt. Availing yourself to the relief bankruptcy permits can be the smartest, most refreshing way to "start over" in your financial life. Do not be embarrassed by the need to straighten things out through bankruptcy. Think about how much you have learned through your mistakes. Think about how well you will do without your debts. None of my clients want to file bankruptcy but all of them want the result: to be debt free and live a fruitful life, raising their family and contributing to their community.

8. Judgments are bad but not insurmountable. When you do not pay a bill and fail to work out a payment arrangement with your creditor, the creditor

oftentimes file a lawsuit against you. When you receive the lawsuit (either in the mail or personally served upon you), you only have 35 days to answer the complaint in New Jersey. If you fail to file an answer, the creditor will enter a default against you and eventually, a default judgment. A judgment creates a "secured interest" in things that you own, including your home. Once a judgment is entered, the creditor can go after your wages through a "wage levy or garnishment", levy your bank account or go after any assets allowed by law. This becomes very inconvenient especially when you have written out five checks to other creditors and you receive notice from your bank saying there are insufficient funds to pay your checks due to the fact that your account was levied over the weekend. Not only do your checks bounce increasing fees from the creditors you meant to pay but your bank also hits you with overdraft fees. You can avoid this problem by paying attention to your mail and answer every complaint that you receive. Oftentimes you can work out resolution of the complaint through a repayment plan. If you do nothing, a judgment will be entered and you will have to deal with the above scenarios. Worst though is that once a creditor gets a judgment, the underlying debt may or may not be dischargeable depending upon whether the asset has a lien on it. For example, if you own a home with some equity that can be exempted (see number 1, above), a judgment can eat up some of that equity. This means that while you will not be personally responsible for the judgment, you will suffer sometime in the future when you sell the home. At time of sale, your mortgage and the judgment will have to be paid off, with interest. There are procedures through which the judgment can be released through bankruptcy. The point is that you should do anything possible to avoid judgments, including filing bankruptcy before you are sued or before the judgment is entered.

9. Waiting to file bankruptcy when your financial situation improves. Waiting to file bankruptcy when your financial situation improves. Many people believe that if they wait long enough that their finances will improve to a point that they may be able to pay off their debt; or they think that if they are making a more money they won't look so bad when they file bankruptcy or try and work out a deal with the IRS for taxes they owe. Nothing can be further than the truth. In fact, this is the worst thing you can do. For example, I have been counseling one family for about two years. I originally advised that they should immediately file chapter 7 bankruptcy, discharge their debt and move on in life. They might even be able to modify their mortgage down the road. The wife was not working and the family was just about getting by. The client declined my advice and instead concentrated on modifying his home mortgage. He would occasionally call to let me know how they were doing. Recently, he called me to say they successfully modified their home mortgage and the wife was now working. They were finally ready to file bankruptcy and discharge their \$50,000 in credit card debt. I went over their changed financial picture and was sad to inform them that now they were making too much money. They could no longer discharge their credit card debt in a chapter 7. The best they could do now is file a chapter 13 and pay back most of their debt over the next five years. The client thought he was doing

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WHY SHRED YOUR DOCUMENTS?

BY PETER LEVITT

IN TODAY'S DAY AND AGE, every business collects and maintains sensitive information. Although many businesses are making the shift to storing data electronically, there are still many businesses that store paper files. If you're one of those

businesses, you may be wondering what to do with those important documents when they're no longer needed. Customer lists, payroll records, and credit card information are all things that should be shredded when you're ready to dispose of them. Wondering why it's so important to shred important business documents? Here are the top five reasons:

1. PREVENT IDENTITY THEFT

In 2012, about 16.6 million U.S. residents over the age of 16 were victims of at least one identity theft incident according to the Bureau of Justice Statistics. In order to protect your employees, your customers, and your business, it's essential that you shred documents when they're no longer needed. When these documents are still in your possession, it's important that you store them in a safe and protected location.

2. PROTECT YOUR CUSTOMERS

Going along with the point above, it's important that you do everything you can to protect your customers' identities. Even though you shouldn't be writing down credit card information, if you do, it's important that you shred this information right away. The same goes for any documents that have sensitive customer information on it.

3. IT'S THE LAW

Legislation regarding information privacy and security is getting more and more rigorous, and it continues to be strictly enforced. Penalties can be severe for businesses that fail to comply with these regulations. You have a duty to protect your customers' personal and secure information, and if you don't you're at risk of receiving fines for mishandling customer information.

4. PROTECT YOUR EMPLOYEES

Employees have a legal right to privacy, and they expect that you will keep their personal information safe. Where are you discarding voided checks, old pay stubs,

time cards, health records, copies of photo IDs and social security cards? If you're simply throwing them in the trash can, you're not doing everything you can to ensure that your employees' privacy and identity are protected. Shredding these documents is a better alternative to just throwing them away.

5. YOU'LL SAVE SPACE

Do you really need all of those papers that are piling up in your office? If you have paper taking up coveted "real estate" in your office, consider shredding those documents instead. By shredding all of those unnecessary documents, you'll create extra space in your office for other, more important things (like that new computer you've been wanting).

DOCUMENTS YOU SHOULD BE SHREDDING

Wondering what kinds of documents should go through the shredder? Here are some examples:

- Tax returns
- Photo IDs
- Bank statements
- Voided checks
- Employee pay stubs
- Credit card information
- Copies of sales receipts
- Documents containing sensitive information such as name, address, phone number or email
- Employment records

Peter Levitt is the owner of Autoshtred, a on-site document destruction service. Centrally located in Toms River, Autoshtred services clients throughout New Jersey. Prior to owning Autoshtred, Peter owned an executive search business focusing on Wall Street. Born and educated in Canada, he emigrated to the United States where he met his wife and has two wonderful sons. He can be reached at peter@autoshtred.net

Tax Scramble

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CAN'T PAY YOUR TAXES? HERE ARE 6 WAYS TO COPE

BY TINA OREM

Finding the cash to pay a larger-than expected tax bill can be tricky, but tax pros say there are ways to deal with the surprise without having to pawn the family heirlooms.

1. TAKE A DEEP BREATH

Though crimes such as tax fraud or evasion certainly can come with jail time, the IRS probably won't send you to prison simply for being short on cash, says Ken Portera, an enrolled agent in East Brunswick, New Jersey.

"They're going to send you a bill. I mean, it's as simple as that," he says. That bill will include interest and probably late-payment penalties, Portera warns. The IRS generally charges around 4% annual interest plus a monthly late-payment penalty of 0.5% on unpaid balances.

2. STILL FILE YOUR TAX RETURN ON TIME

"That way, you're not going to be subject to failure-to-file penalties - because they are significantly higher than the failure-to-pay penalties," warns Melinda Kibler, a certified financial planner with Palisades Hudson Financial Group in Fort Lauderdale, Florida. If you're not done preparing your return, get a filing extension by April 18.

But take note: An extension gives you more time to file, not more time to pay.

3. PAY WHAT YOU CAN RIGHT AWAY

Because the IRS charges interest and failure-to-pay penalties on unpaid balances, sending even a little money with your tax return is better than sending nothing.

"If you can pay down more now, that means less interest and penalties as you scrounge together the rest of the money to cover the bill," Kibler says.

4. LOOK INTO A PAYMENT PLAN WITH THE IRS

Not many people know these exist, Portera says, but they can show the IRS you're making an effort.

- If you can pay your tax bill within 120 days, a full payment agreement might come in handy. It won't turn back the clock on interest or late-payment penalties, but there's no fee to set up the plan.
- If you need more than 120 days and owe less than \$50,000 in combined taxes, penalties and interest, an online payment agreement could be an option. The setup fees can run over \$100, but they can be reduced if you establish automatic payments.
- If you owe more than \$50,000, you can apply for an installment agreement. Sometimes the IRS will even consider settling for less than what you owe in an "offer in compromise."

Set up a plan that leaves you with some financial breathing room in case life gets in the way and you need cash for emergencies, says Lew Hurwitz, an enrolled agent in Petaluma, California. You can always send extra money if you have it, he notes.

5. THINK TWICE ABOUT BORROWING OR RAIDING YOUR 401(K)

It might be tempting to pay a tax bill with a credit card so that it's done (and so you can get frequent-flier miles or other rewards), but the card's interest rate may be higher than what you'd pay under an IRS payment plan. Plus, paying taxes with a credit card typically incurs processing fees. Hurwitz says, "It really isn't worth it."

Raiding retirement accounts can trigger early withdrawal penalties, Hurwitz adds. Drawing on a home equity line of credit does buy time, and the interest can be tax deductible, but getting a HELOC usually isn't free. Plus, it can create a temptation to overspend and run up the balance, Portera notes.

6. MAKE SURE IT DOESN'T HAPPEN AGAIN

For many people, avoiding a surprise tax bill can be as simple as adjusting their W-4 form, which they give to their employers instructing them on how much income tax to withhold from their paychecks. Increasing the amount withheld can help set aside more tax money for next year -

"so you're not in the hole," Portera says.

Our own Kenneth Portera, EA is quoted in the article. Permission was given to publish this article here.

Tina Orem is a staff writer at NerdWallet, a personal finance website. Email: torem@nerdwallet.com (mailto:torem@nerdwallet.com).

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IMPORTANT: Please *DO NOT* include your salary history or any other personal information that you do not wish to have publicly disseminated to the voting membership during the election process.

continued from page 5

the right thing – getting his mortgage modified, getting the wife employed – but instead he ended up screwing up his chance to start life with a clean financial slate. With respect to IRS debt, the same problem occurs. When your earnings are down, is the best time to make deals with the IRS, or any other creditor. There is a procedure called an “Offer in Compromise” where in the IRS takes less than what is owed based on your assets and income. The biggest factor is your income. In essence, the smaller your income, the smaller the offer. Again, some people think it would be better to approach the creditor or the IRS when they are financially able to make a better offer. This approach flies in the face of all logic if you understand how creditors operate. The more you got, the more the creditor wants. Likewise in their attempt to modify their home mortgage, some people keep on paying the mortgage religiously and contact the mortgage company to modify the terms because they cannot afford the payments. Really??, then why are continually paying the monthly nut? While I would never advise someone to stop paying their bills, the reality is that the bank will tell you to miss three or more monthly payments before they will consider a modification. The lesson to be learned with this ninth pitfall in bankruptcy is to act when your income and financial picture is bleak if you want the best result in bankruptcy or debt negotiations.

10. Stop using your credit cards. If you are taking cash advances on your credit card and considering bankruptcy, stop immediately. First, if you borrow money just prior to filing bankruptcy, like within ninety days of filing, a creditor can argue that you used credit intending to discharge the debt in bankruptcy. In other words, you took money from someone with the intent of not paying it back. This is called fraud and creates a non-dischargeable debt. Cash advances are another problem. Generally, cash advances are not dischargeable in bankruptcy. This means that if you owe \$10,000 to a creditor and \$2000 was charged 30 days prior to filing bankruptcy and \$1000 was a cash advance, then only \$7,000 of the \$10,000 will be discharged in bankruptcy. There are a few exceptions to these general rules.

11. Chapter 13 is easy. Even if you do not qualify to completely discharge your debts in a chapter 7 bankruptcy, you should seriously consider a chapter 13, although beware that it's a deep row to hoe. Where you have too much equity in the things you own, or you earn too much money or you want to cure the arrears on your mortgage, rent or car loan, chapter 13 is a good way to solve your problems. It is a great deal more complicated than a chapter 7 but there are a few areas that can be easily explained. For instance, if you make too much money for a chapter 7 and all you are trying to do is discharge your \$50,000 in credit card debt, the means test would calculate how much money you have left at the end of the month. That amount of money is what you would have to pay to your creditors over a maximum

of 60 months. If you have \$300 left at the end of the month, you would pay \$300 times 60 months equals \$18,000 (please note, however, that the amount to be paid also depends upon your actual amount of disposable income you have aside from the means test – I told you this was complicated). At the end of the plan period of 60 months, you will have paid \$18,000 to your creditors. Assuming you complete the plan, you would end up paying off \$18,000 of your debt and \$32,000 would be discharged. In another instance, let's say you want to cure 1 years worth of unpaid mortgage payments in a chapter 13 and you have \$10,000 of debt to discharge. Your mortgage payment is \$2000 per month, meaning you have \$24,000 in arrears to cure. In order for you to qualify for a chapter 13, you would have to prove to the trustee that you have sufficient income to pay \$400 per month for 60 months (24,000 divided by 60 is 400) plus your monthly mortgage payment of \$2,000 plus all your other monthly expense including but not limited to taxes, utilities, food, insurance, child care, gas in the car, car payments, etc. At the end of this plan, you would have cured your arrears and possibly discharged some of \$10,000 debt depending upon your disposable monthly income. Now that I have totally lost you, consider another instance where you have \$50,000 of nonexempt equity in your home and \$80,000 in credit card debts. You could not file a chapter 7 since the trustee would take your house and sell it. But if you file a chapter 13, you would have to pay a minimum of \$50,000 of the \$80,000 owed over 60 months or \$833 per month (50,000 divided by 60 equals 833). You would have to prove to the trustee the ability to pay this amount plus all your other recurring monthly expenses. Another great use of the chapter 13 plan is to strip off a second mortgage on your home where the first mortgage exceeds the market value of your home. What's good about chapter 13 is that it has many different applications; what's bad about it is that it has many different applications, many moving parts and a big potential for failure because you are taking on another financial commitment. Nonetheless, it's a powerful tool that works well in the right set of circumstances.

CONCLUSION

There are many other nuances in the area of bankruptcy. This report only touches upon some of the most often overlooked problems. Please contact me directly to set a mutually convenient time to review your individual set of facts. I can help you sort out the facts from fiction and assist you in putting together a feasible way to finally resolve your financial woes.

David A. Semanchik, Esq. has been licensed to practice law since 1990. His specialty is Bankruptcy and he also provides commonsense law services in Toms River, NJ. When he is not working at his law practice, he works on his black belt in karate and restores old motorcycles. He can be reached at 732-240-4055 or info@semanchiklaw.com

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