

## Can I eliminate my tax debt in bankruptcy?

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Maybe. First, the good news; although difficult, eliminating tax debt in bankruptcy is possible and very beneficial. Tax debt grows quickly and can hang over you for what seems like an eternity. The government also enjoys collection powers that other creditors do not. So, obtaining a discharge from tax debt can give you a whole new financial life and is worth investigating. How can it be done?

Initially, there are a few requirements that should not cause surprise; you must file your tax return and you must not have illegally or fraudulently attempted to evade or defeat paying the taxes stemming from that tax year. Given those basic requirements, there are three main tests that apply: the 3 year rule, the 2 year rule, and the 240 day rule. First, a minimum of three years must have passed from the date a return is due before the taxes due according to that return could be dischargeable. Second, if the return is filed late, a minimum of two years must have passed from the time the return was filed to when the bankruptcy petition was filed. Lastly, at least 240 days must have passed from the date the tax was “assessed” before you file your petition.

It sounds easy, but determining these basic dates is not as simple as it may seem. Also, there are facts that may exist that could “toll” the time periods associated with these rules, such as a prior pending bankruptcy, or possibly a pending offer-to-compromise. Amended returns will also affect the analysis.

Taking a chance and filing bankruptcy in order to discharge taxes when you are unsure if you will be successful is unwise. Moreover, in order to be successful, it takes an affirmative act on your part after you file (not discussed in this blog) to make sure the taxes are deemed discharged. So, you can't just file the petition and sit back and watch your taxes get eliminated, even if they otherwise could be. So, if you're contemplating filing bankruptcy to eliminate your tax debt, it pays to have an expert analyze if your taxes could be eliminated in the first place, and then make it happen. (As stated, there are more issues than appear in this blog with respect to this issue.)

If you have tax debt that is hampering your financial life and have an interest in addressing the situation, feel free to give us a call.

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