

## The Timeshare Trap & Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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A while back I was attending a court hearing at the bankruptcy court while the bankruptcy trustee was questioning a person who had filed for bankruptcy. He asked this particular debtor if he had a timeshare. The debtor replied that he did, and the trustee replied sarcastically, “I think owning a timeshare is a required qualification for filing bankruptcy!” While somewhat rude and definitely condescending, the trustee was bringing to the light the fact that many people own timeshares and that such purchases – in the long run – don’t turn out to be good investments.

A common question I get from bankruptcy clients is what is going to happen to the timeshare in the bankruptcy process. Much of that depends on whether you want to keep the timeshare or not and what chapter of bankruptcy you file. Timeshares are broken down into two types: timeshares where you actually have a real property ownership in condo or other resort, or the type where your ownership interest is merely the ability to use the property.

In a chapter 7 bankruptcy timeshares are considered non-exempt property. This means that if you own your timeshare outright, that you will either have to pay the value of the timeshare to the bankruptcy trustee or you will have to surrender it to the bankruptcy court and they will try and sell it and use the proceeds to pay your creditors. Notice I said “*try*” to sell it, as usually the bankruptcy trustee isn’t any more successful in selling your timeshare that you have been.

In a chapter 13 bankruptcy you retain all of your assets, however, you will be required to pay the value of your timeshare to your creditors over the life of your chapter 13 bankruptcy (3-5 years).

If you owe money on your timeshare or simply are tired of paying the yearly maintenance fees, you can surrender your timeshare back to the lender and have no future liability. For most of my bankruptcy clients this is the option they choose. Many find that they either don’t have the time or money to use the timeshare and the annual maintenance fees continue to rise and are more difficult to pay. Surrendering the timeshare through your bankruptcy case will rid you of any liability on the timeshare itself and any future (or past) annual maintenance fees.

I offer a free bankruptcy consultation where we can discuss your timeshare and any other financial difficulties you are going through.

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