

Bankruptcy & Tithing: Continuing Your Charitable Contributions in Bankruptcy

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In 2010 Americans gave \$291 billion dollars to charity. It is no surprise that in meeting with people about bankruptcy that the topic of how their charitable contributions or tithing will impact their bankruptcy case often comes up. Many are surprised to learn that not only can you continue paying tithing to your church or donating to your favorite charity, it may help you qualify for a Chapter 7 bankruptcy or reduce your monthly payment in a Chapter 13 bankruptcy case.

Charitable Giving as a Deduction in the Chapter 7 Bankruptcy Means Test

Back in 2005 Congress amended the Bankruptcy Code and implemented a means test for Chapter 7 debtors. Essentially what the means test did was limit who could file a Chapter 7 bankruptcy based upon household size and income. If you make more than the average family of your size in your state, you may not qualify for a Chapter 7 bankruptcy. However, if you are over the income limits imposed by the means test, there are certain deductions that can be made, one of them being any payments to charities or tithes to churches.

In a Chapter 7 case there is no limit as to what you can give. However, in most cases there should be some history of the charitable giving to avoid running into objections. That being said I have never run into any serious objections to deducting charitable contributions from the means test. So, by paying a tithe to your church or helping out that local charity you can actually help yourself qualify for a Chapter 7 bankruptcy when you wouldn't otherwise.

Charitable Giving Reduces What You Pay in Your Chapter 13 Bankruptcy Case

For those who need to file a Chapter 13 bankruptcy you can continue to pay your tithing or contribute to a charity during your Chapter 13 payment plan. During a Chapter 13 bankruptcy case you are required to submit a plan as to how much you will be paying your creditors. These plans are usually a minimum of 36 months long and a maximum of 60 months. In determining what you must pay your creditors the bankruptcy court will look to your income and monthly expenses. Obviously all expenses are not treated equally. For example you cannot choose to spend \$1,000 a month on recreation and expect to get the court to approve your Chapter 13 plan.

However, under The Religious Liberty and Charitable Donation Protection Act you are allowed to donate up to 15% of your gross income to charitable causes or tithe to your church. The Act does not require that there be any prior history of giving either - meaning you can start contributing at the beginning of your Chapter 13 case. By Congress allowing this deduction it can greatly reduce what you are required to pay into your Chapter 13 plan. It also protects those that tithe as part of their religious worship.

I offer free bankruptcy consultations where we can discuss your specific situation and determine if you qualify for a Chapter 7 bankruptcy or if a Chapter 13 bankruptcy will be necessary. I can be reached at (480) 420-4028 or via email at john@skibalaw.com .