

Bankruptcy & Credit Cards – How Long Until My Wages Are Garnished?

By Arizona Bankruptcy Attorney John N. Skiba

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A big fear for many prior to bankruptcy is the thought of having wages garnished. This is a well-founded worry as in Arizona up to 25% of each paycheck can be garnished and paid to your creditors. However, what most people don't realize is that your creditors can't simply start taking your wages if you miss a payment on your credit card.

Unsecured debts, like credit cards and medical bills, can call you and generally be annoying if you do not pay them, however they can't take anything away from you unless they sue you, obtain a judgment against you, and then obtain a writ of garnishment. This is not a quick process, and we can almost always file your bankruptcy case prior to any actual garnishment.

It is my experience most credit card companies will not file a lawsuit until you are about a year behind on payments. Most will charge off the debt once it becomes 120 days past due and then will sell it to a debt buying company who will then pick up with the collection calls. For those cases where the company does elect to sue, they must serve you with the lawsuit personally. This means that a process server will actually have to come to your door and give you a copy of the lawsuit.

Once this occurs you will then have 20 days to submit a written response. If you don't do this they will then be able to obtain a judgment against you. However, just because they have a judgment does not mean they can take property or money away from you. The creditor must then obtain a writ of garnishment before they are going to be permitted to garnish wages, bank accounts, or take any property. Again, this all takes time and you will be provided notice.

The IRS Exception

There is one big exception to this rule. The IRS. The Internal Revenue Service lives by a different set of rules (as government agencies often do). They can take your wages, garnishment your bank accounts, or levy on property without having to obtain a judgment or a writ of garnishment. If you owe significant money to the IRS and have for some time, watch out, because you may wake up one day to an empty bank account. The only way to stop this is by filing a bankruptcy.

I offer a free bankruptcy consultation where we can review your specific situation and discuss if bankruptcy is a good option for you.

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