Domestic Support Obligations

If you have a family, your ability to support your family members is an important issue. The courts recognize this fact. Your domestic support obligations are a priority when you file for a bankruptcy. These obligations will be accommodated before any of your other unsecured debt in your Chapter 13 case. However, secured creditors and administrative fees get paid before your support obligations.

Limits to Automatic Stay with Regard to Domestic Support Obligations

An automatic stay is a federal court order that stops all collection proceedings against you after you file for bankruptcy. The automatic stay will not stop the collection of a domestic support obligation regarding a piece of property that is not part of your estate. Assets traditionally not considered property of the estate, like your post-petition wages in a Chapter 7 case, or a pension plan, can still be levied to satisfy a domestic support obligation.

The automatic stay will not prevent a license suspension or a tax refund offset under the new law which went into effect in October of 2005. The automatic stay will also not effect the "establishment" or "modification" of a domestic support obligation.

Consequences to Failing to Meet Domestic Support Obligations

The new law puts even more emphasis on making sure debtors honor their domestic support obligations. Debtors must be current on post-petition (after filing) support obligations in order to get a Chapter 13 case confirmed by the court. Debtors must remain current on these support obligations throughout the entire Chapter 13 plan, or risk dismissal of the case or a denial of discharge.

The new law, in essence, forces debtors to be completely current on support obligations by the time they are discharged from a Chapter 13. Any past due support obligations would get paid as a priority debt in the Chapter 13 and thus must be paid 100% in the Chapter 13 and the debtor is now required to remain current on continuing support obligations after the case is filed.