

Non-Dischargeable Debts

Most debts are eliminated through a Chapter 7 Bankruptcy. However, there are a select few types of debts that cannot be discharged through bankruptcy. These types of debts are categorized as "non-dischargeable", which means that after you file bankruptcy, you will still owe these debts.

Below are the debts that fit into this category:

Student Loans and Educational Based Debt: Loans for "educational benefits" cannot be discharged through a bankruptcy, unless you can show that they cause you an undue hardship. This includes loans for tuition, books, room, board, etc. (11 U.S.C. 523(a)(3)).

Child Support and Alimony: child support and alimony cannot be discharged through the filing of a bankruptcy. (11 U.S.C. 523 (a)(5) and 523 (a)(18)).

Taxes: taxes will not be discharged by filing a Chapter 7 Bankruptcy unless they meet all four of the following points. For taxes to be dischargeable, (1) they must be income taxes (or taxes measured by gross receipts), (2) must be over three tax years old, (3) they must have been filed on time (meaning before April 15th of that tax year, unless an extension was given) and (4) they must be accurate (this means that the IRS did not later find errors or omissions in the return).

It is also possible for taxes filed late to be discharged, but only if the returns were actually filed more than 2 years prior to the bankruptcy and all other conditions of discharge discussed here are met. Unless the taxes owed meet all four of these criteria they will not be discharged in a bankruptcy. (11 U.S.C. 523 (a)(1)).

Marital/Divorce Debts: any debt that was incurred through a divorce decree will not be discharged through Chapter 7. Any debts awarded through a divorce decree can no longer be included within a bankruptcy, regardless of whether the ex-spouse objects to the bankruptcy or not. This is a change from the previous Bankruptcy Code. (11 U.S.C. 523 (a)(15)).

Court Imposed Restitution: any money owed to the court or victim as a result of criminal activity is not dischargeable through a bankruptcy. (11 U.S.C. 523 (a)(7) and 11 U.S.C 3613).

Court Fees: debts owed to the court are also not dischargeable in a Chapter 7 Bankruptcy. (11 U.S.C. 523 (a)(17)).

Fraud/Theft: debts incurred in the commission of a fraudulent act will not be discharged if the creditor objects to the dischargeable of the bankruptcy. This includes debts incurred through larceny and embezzlement. (11 U.S.C. 523 (a)(2) and 11 U.S.C 523 (a)(4)).

Intentional Torts: debts arising from intentional acts to injure a person or their property are not dischargeable. (11 U.S.C. 523 (a)(6)). These acts include battery and assault.

Debts Not Previously Discharged in other Bankruptcies: debts that were included in a previous bankruptcy that was dismissed due to fraud. (11 U.S.C. 523 (a)(10)).

Conclusion

These are the major categories of debt that are "non-dischargeable" through a bankruptcy. If you are in debt and would like to find out what your options are, give Amicus Curia a call at **(360)4273599**.