

Tax Refunds by Courtroom

PWB

Tax Return (What the trustee is looking for:

- 1) How much is the refund?
- 2) Is an undisclosed business listed in the taxes?
- 3) Does the income reported differ from I and J?

Keeping a refund under \$1500

- 1) Tax language in plan
- 2) Send over taxes and an email asking to keep (no proof required)

Keeping a refund over \$1500

- 1) Copy of tax return
- 2) Motion to retain/ratify asking to retain the entire amount not just the part over 1500 and proof of the entire amount to be retained.
- 3) Send in any amount not requested to keep
- 4) Each year is viewed independently (it doesn't get harder if you kept the previous return)

Resolving a TMTD

- 1) A motion to retain/ratify or a modification if returns are under 1500 is necessary.
 - a. Trustee will not do c/o to fix tax issue on the TMTD itself
 - b. A mod increasing pool is not enough without a separate retain/ratify
- 2) Resets are liberally granted if client is moving the case forward
- 3) Can substitute a future year's return for a past one. (if done immediately after spending the current years return)
- 4) If unjustifiable (no proof or no good answers) an evidentiary hearing will be held and client will need to attend)
- 5) Loss of income will work (trustee likes an I and J with tax refund spread over the year on I and J)

+++++

CRM

Nancy Whaley's office is scheduling Thursday calendars in Judge Mullins courtroom for TMTD's for tax returns (Tax years 2010, 2011 & 2012). The first of these will be held on April 4.

If you see a client who has a 4/4 TMTD tax hearing. Please do the following:

- 1. Copy and scan in signed 2010, 2011 and 2012 tax returns into database. Check for correct filing status.
- 2. Put in notes as to why they don't have a return and/or when we can expect to receive it.

3. In the interest of keeping paperwork to a minimum and avoiding multiple hearings - Please **DO** **NOT** file any plan mods adding in the \$1,500 tax language or file multiple motions to ratify if they have already spent their tax refund. Instead just email me and I will work out an agreement with Maria on the TMTD order.
4. Only file a Motion to Retain if they have their refund and want to keep it for an expense.
5. Please accept unsworn affidavits for tax years they are not required to file.
6. Please accept 2012 tax extensions.

WLH

Same as CRM but there will not be a “specially set” day for these hearings only.

JRS, MHM

Just send sub-\$1500 returns to trustee. No proof/excuses needed. NOTE they have people who love looking for minute details -- if the filing status is not correct, the debtor will need to amend to return to change it. Likewise, I am sure, on changes in income and businesses.