

Tardy Submission of Tax Returns

Bankruptcy Code section 521(e)(2)(A)(i) requires each individual debtor provide the chapter 7 trustee with a copy of the debtor's federal income tax return for the most recent tax year ending immediately before the commencement of the case and for which a federal income tax return was filed. The Bankruptcy Code requires the debtor submit the return no later than **seven days before the date first set** for the first meeting of creditors. Tardy submission of tax returns hampers the trustee's investigation of the estate and delays administration of the case. Because the debtor must testify about the tax return, failure to timely submit the return may result in the debtor having to attend a rescheduled or continued meeting of creditors.

Bankruptcy Code section 521(e)(2)(B) provides that if the debtor fails to comply with the requirements of section 521(e)(2)(A)(i), the Court **shall dismiss the case** unless the debtor demonstrates that the failure to comply was due to circumstances beyond the debtor's control.

Absent unusual circumstances, the debtor's attorney should collect and review the tax return prior to filing the petition. An attorney's failure to receive and review the debtor's tax return prior to preparing and filing the petition, schedules, and statement of financial affairs calls into question whether the attorney has satisfied the attorney's obligations under Bankruptcy Code sections 707(b)(4)(C) and (D).

The United States Trustee may seek reduction and disgorgement of attorney fees in cases in which the tax return is not timely submitted to the chapter 7 trustee. 11 U.S.C. § 329.