

POTENTIAL AREAS OF INQUIRY  
RELATING TO EXCEPTIONS OF PARTICULAR DEBTS  
FROM YOUR DISCHARGE

There are 19 categories of debt excepted from the discharge of for individuals. So the question is, are you aware of any potential issues relating to any of these categories? If so, please discuss these with me so I can assess any potential problem areas and we can prepare for them. They are:

1. Most taxes or custom duties are not dischargeable.
2. A debt created for the obtaining of money, property, services or credit obtained by false pretenses, false representations, or by fraud will not be discharged. Furthermore, a debt will not be discharged if the debtor incurred the debt through the use of a written materially false financial statement on which the creditor reasonably relied and that was issued by the debtor with intent to deceive. Certain consumer debts such as credit card debt and the like in excess of \$500 incurred for "luxury goods or services" incurred within 90 days prior to the filing of the petition or for certain cash advances in excess of \$750 obtained within 70 days of the filing of the petition are not dischargeable.
3. Debts which are not included on debtor's list of creditors or on the debtor's schedule of liabilities will not be discharged unless the creditor had notice or actual knowledge of the case in time to take action with respect to a proof of claim or objection to discharge.
4. Debts incurred by the debtor through fraud, defalcation, embezzlement, or misappropriation while acting in a fiduciary capacity are not dischargeable. To be acting in a fiduciary capacity there must be an express trust. Such trusts sometimes appear in security agreements, especially in security agreements for floor plan loans. They may also appear in an assignment of rents.
5. Most debts for domestic support obligations.
6. Debts incurred by reason of willful and malicious injury to the person or property of another are not dischargeable. This covers damages resulting from most intentional torts. Another area that comes up with some frequency is the sale or transfer of property that is subject to a lien without

the consent of the lien holder. It can also come up in connection with use of the proceeds from sale of collateral.

7. Most fines and penalties assessed by governmental units are not dischargeable.

8. Certain student loans are not dischargeable.

9. A debt incurred by reason of operation of a motor vehicle, vessel, or aircraft while legally intoxicated is not dischargeable.

10. If the debtor has previously been a debtor in a bankruptcy case, a debt that was or could have been the subject of that prior case will not be discharged if the debtor was denied a discharge or waived his discharge in the prior case.

11. Debts evidenced by a final order or decree or certain settlement agreements arising from an act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union are not dischargeable.

12. Debts for malicious or reckless failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution are not dischargeable.

13. Debts for payment of an order of restitution issued under the federal criminal statutes are not dischargeable.

14. Debts incurred to pay a tax to the U.S. or any other governmental unit (e.g., taxes paid by credit card) are not dischargeable.

15. Debts other than domestic support obligation that are incurred by the debtor in the course of a divorce or separation agreement (i.e., property settlement obligations) are not dischargeable.

16. Debts for a fee or assessment that is due and payable after the filing of a bankruptcy petition to a membership association with respect to the debtor's condominium ownership.

17. Debts for fees, costs, or expenses imposed on a prisoner by a court for the filing of an action are not dischargeable.

18. Debts owed under state law to a state or municipality that are in the nature of support and enforcement under the Social Security Act are not dischargeable.

19. Debts for violations of federal or state securities laws.