

# U.S. Bankruptcy Court Eastern District of Missouri

## PRACTICE POINTERS FOR IRS ISSUES IN BANKRUPTCY

### Submitting Tax Returns

When debtors file bankruptcy cases with missing tax returns, the IRS files a claim with estimated liabilities and must move to dismiss the case for unfiled tax returns. Many debtors' counsel will mail or email copies of the missing returns to the U.S. Attorney's Office. The U.S. Attorney's Office then forwards those returns to the IRS to be filed. This causes extra work for the U.S. Attorney's Office, because of the security measures involved. When they receive physical tax returns, DOJ regulations state they must secure the returns in a locked cabinet and inside a special envelope/folder. Further, submitting the returns to the IRS is difficult because the returns must be encrypted before they can be sent—and the Department of Justice and the IRS have different systems such that encryption is difficult. Physically walking the returns to the IRS also presents a difficulty for security reasons.

The U.S. Attorney's Office and the local IRS office would like to make attorneys aware that the local IRS office has an e-fax number where debtors and/or counsel should submit unfiled returns to be filed. **The number is 855-852-4134.** In addition, each IRS specialist has his or her own e-fax number. The debtors or their attorneys should send copies of returns via e-fax to the number listed above and to the specialist assigned to that case (typically, the name of the specialist is on the proof of claim).

### Obtaining Tax Transcripts

The Chapter 13 Trustee encounters problems when debtors are eligible to receive refunds based on their 1040 returns, but the IRS intercepts the returns for unpaid liabilities. When this happens, the IRS submits a notice to the debtor, but debtors may discard this notice. The Chapter 13 Trustee's Office requires that notification as evidence that the return has been intercepted.

The Chapter 13 Trustee's Office cannot obtain debtors' tax transcripts, and neither can the U.S. Attorney's Office unless the matter is in contested litigation and the IRS has submitted a referral to the Department of Justice. Debtors and their attorneys, however, may obtain the transcripts via the following method:

- Complete an IRS form 4506-T found at this website: <https://www.irs.gov/pub/irs-pdf/f4506t.pdf>

*The instructions on the form indicate how it can be submitted.*

- Practitioners may use the e-Services Transcript Delivery System accessible via this website: <https://www.irs.gov/e-services> (however, before obtaining the transcripts, the practitioner must have submitted a properly executed power of attorney form to the IRS's Centralized Authorization File; the instructions can be found on the website).