



U.S. DEPARTMENT OF JUSTICE

*United States Trustee
District of Arizona*

230 North First Avenue, Suite 204 (602) 682-2600
Phoenix, Arizona 85003-1706 fax (602) 514-7270

Sender's Direct Dial: (602) 682-2610

June 30, 2006

MEMORANDUM TO: Chapter 7 Panel Trustees
Chapter 13 Standing Trustees

FROM: Tom Kadotani
Regional Bankruptcy Analyst

SUBJECT: USTP Policy on Debtor Tax Returns

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) amended 11 U.S.C. §521(e)(2) to require that a debtor provide to the trustee a copy of the most recently filed tax return seven days before the meeting of creditors. If the return is not provided, the court is directed by the Code to dismiss the case.

It is the bankruptcy trustee's responsibility to enforce compliance with the tax return provision. However, there appears to be confusion on the part of some trustees as to the Program's view of their specific obligations under §521(e)(2). The Program's policy on the responsibility of trustees with regard to tax returns is stated as follows:

A trustee is expected to require a debtor to provide tax returns as mandated by §521(e)(2), although a trustee does have discretion as to when to file a motion or take other action.

A trustee should take action if the tax return is not produced before or at the §341 meeting.

Recently, a trustee (not in this region) represented to the court, incorrectly, that Program policy required him to move for dismissal in a case where the debtor did not provide the return at least seven days before the §341 meeting, even though it was provided prior to the §341 meeting. Based on the trustee's representation, the court issued an opinion that was critical of what he believed to be Program policy.

Please ensure that you are aware of the Program's position as it relates to §521(e)(2) actions.