

Information on Debtor Audits

Pursuant to section 603 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, individuals who file for relief under chapter 7 or chapter 13 of the Bankruptcy Code are subject to audit. At least one out of every 1,000 individual chapter 7 and chapter 13 cases will be randomly selected for audit. In addition, a case may be selected for an exception audit (audit of a case with income or expenditures above a statistical norm).

The audit involves the verification of the income, expenses, and assets reported by a debtor in the bankruptcy schedules and statements. A debtor is required to provide some additional information and records and to cooperate with the audit firm and provide this information promptly. There is no cost to a debtor for the audit, except for the cost of making copies of documents needed for the audit. The information that a debtor provides in connection with a case is subject to examination by the Attorney General or his designee. Additional disclosures of the information may be to contractors engaged to perform debtor audits, to a bankruptcy trustee when the information is needed to perform the trustee's duties, to the appropriate federal, state, local, regulatory, tribal, or foreign law enforcement agency when the information indicates a violation or potential violation of law, or to a credit counseling or debtor education provider when the information is necessary to enable the provider to perform its duties. Other disclosures may be made for routine purposes. For a discussion of the types of routine disclosures that may be made, you may consult the Executive Office for United States Trustee's systems of records notice, UST-001, "Bankruptcy Case Files and Associated Records." *See* 71 Fed. Reg. 59,818 et seq. (Oct. 11, 2006). A copy of the notice may be obtained at the following link: http://www.justice.gov/ust/eo/rules_regulations/index.htm.

The audit firm will file a report containing the results of the audit. If the audit firm finds material misstatements of income, expenses, or assets, the clerk of the bankruptcy court will notify the debtor's creditors. The report is not a legal determination, and the legal effect of the auditor's finding of a material misstatement is a question for the court.

By statute, debtors are required to cooperate with the audit firm. Failure to cooperate with the audit firm, or failure to reasonably explain to the bankruptcy court any material misstatements contained in the audit firm's report, may result in the dismissal of the case or the denial or revocation of discharge, and, possibly, in referral of the matter to the United States Attorney for criminal investigation.