Overspending Fails to Evade Taxes

For an individual, the primary purpose of a Chapter 7 bankruptcy is discharge of the individual's debt. However, bankruptcy does not discharge all debts, including one for a tax regarding which the debtor "willfully attempted in any manner to evade or defeat such tax."

Matthew Feshbach was a high income, high spending individual who did not pay all of his federal income taxes. He made more than $13,000,000 between 2001 and 2010, spending more than $8,500,000 on personal expenses. This did not leave him sufficient funds to make the payments on his settlement with the IRS for his unpaid 2001 tax liability of $3,247,839.

Mr. Feshbach filed a bankruptcy petition in 2017, and the IRS objected to the discharge of the remaining 2001 tax debt. Rejecting the debtor's argument that his opulent lifestyle was necessary to attract high worth investors for his financial advisory business, the court ruled that, where the tax debt is known, excessive discretionary spending is alone sufficient to establish willful evasion of the tax. The tax obligation was not discharged.
Feshbach v. Dep't of Treasury, IRS, 594 B.R. 495 (M.D. Fla. 2018).

Disclaimer of Inheritance Not a Transfer

Bankruptcy law enables a trustee to recover assets that a debtor transferred to another, without receiving anything in return, prior to bankruptcy.

Ms. Burke disclaimed the inheritance that she was to receive from the estate of her late mother. The amount that Ms. Burke would have received automatically passed under the will to Ms. Burke's adult children. Ms. Burke's bankruptcy trustee sought to recover the funds from the children as a transfer for which Ms. Burke received nothing.

A Tennessee bankruptcy judge sided with the children, explaining that under Tennessee law (to which Maryland law is similar), the disclaimer has the same effect as no inheritance in the first place. Thus, there was no transfer.
Hayduk v. Burke (In re Burke), 592 B.R. 834 (Bankr. E.D. Tenn. 2018).

Tax Sale Reversed as Fraudulent Transfer

The Hamptons failed to pay 2015 real estate taxes totaling $5,201.87. Ontario County obtained a judgment of foreclosure acquiring the property without a bidding process, and then sold the home at auction for $27,000, with the $21,798.13 surplus going to the county. The Hamptons subsequently filed a Chapter 13 case with a plan that paid the tax liability in full. They also sought to reverse the tax foreclosure as a fraudulent transfer.

A transfer of an asset from an insolvent debtor for less than reasonably equivalent value is a fraud on creditors, regardless of intent. Thus, the involuntary transfer of the Hamptons' property to the county in exchange for satisfaction of the tax debt was not for reasonably equivalent value and could be reversed.
Hampton v. Ontario County, 588 B.R. 671 (W.D.N.Y. 2018)

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