

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN**

**UPDATED NOTICE REGARDING
TAX REFUNDS IN CHAPTER 13 CASES**

On January 27, 2010, the Bankruptcy Court for the Eastern District of Michigan issued a Notice Regarding Tax Refunds in Chapter 13 Cases (“Notice”). This notice is being issued as an update to address events that have subsequently occurred.

The Notice explained that in a lawsuit filed by the Internal Revenue Service, the United States District Court for the Eastern District of Michigan issued an opinion and order granting a petition for writ of mandamus in case no. 09-cv-13505 (“District Court Order”). The District Court Order prohibited the United States Bankruptcy Court for the Eastern District of Michigan from entering any order confirming a Chapter 13 plan that contains a provision directing the IRS to pay the debtor’s tax refunds to the Chapter 13 trustee. Further, the District Court Order prohibited the Chapter 13 trustees for the Eastern District of Michigan from seeking to enforce any order that had already been entered confirming a Chapter 13 plan to the extent that such order directed the IRS to pay the debtor’s tax refunds to the Chapter 13 trustee instead of to the debtor. The Notice informed the public of the Bankruptcy Court’s compliance with the District Court Order but also explained that if a Chapter 13 plan or an order confirming a plan required the payment of tax refunds by a debtor to a Chapter 13 trustee, the debtor remained fully responsible for complying with this provision.

On January 30, 2012, the United States Court of Appeals for the Sixth Circuit issued an opinion in case no. 10-1400 vacating the District Court Order. The IRS filed a petition for rehearing that remains pending before the United States Court of Appeals for the Sixth Circuit. Because of the pendency of the petition for rehearing, the United States Court of Appeals for the Sixth Circuit has not issued a mandate vacating the District Court Order. Therefore, the District Court Order remains in effect. The Bankruptcy Court for the Eastern District of Michigan will continue to comply with the District Court Order as set forth in the Notice. After the Sixth Circuit Court of Appeals adjudicates the IRS petition for rehearing, the Bankruptcy Court for the Eastern District of Michigan will issue a further notice regarding tax refunds in Chapter 13 cases in our district.

If a Chapter 13 plan or an order confirming a plan requires the payment of tax refunds by a debtor to a Chapter 13 trustee, the debtor remains fully responsible to comply with such provision.

Dated: April 11, 2012

Phillip J. Shefferly
Chief Bankruptcy Judge