

# Understanding Non-Dischargeable Debts Under the Bankruptcy Code: A Guide for Creditors

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01.21.2025

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When a debtor files for bankruptcy, creditors often fear their claims will be wiped away. However, under Section 523 of the Bankruptcy Code, certain debts are categorized as non-dischargeable, meaning the debtor cannot eliminate these obligations through bankruptcy. For creditors, understanding these exceptions and acting within the appropriate timeframe is critical to preserving your rights and maximizing potential recovery.

### Key Non-Dischargeable Debts

Section 523(a) of the Bankruptcy Code outlines specific debts that are not discharged in a bankruptcy proceeding. These provisions aim to protect creditors who are owed debts resulting from egregious or intentional misconduct.

The most common categories of non-dischargeable debts are:

1. Debts arising from fraud or misrepresentation.
2. Willful and malicious injury caused by the debtor.
3. Embezzlement, larceny, or breach of fiduciary duty by the debtor.
4. Domestic support obligations, such as alimony and child support.

### Filing Deadline

One of the most critical aspects of asserting non-dischargeability is adhering to Federal Rule of Bankruptcy Procedure 4007(c). This rule sets a strict deadline for creditors to file complaints to determine the dischargeability for several of the most common types of non-dischargeable debt. A complaint must be filed within **60 days** of the first date set for the meeting of creditors under Section 341 of the Bankruptcy Code.

The date for the Section 341 meeting is set in the notice of the bankruptcy case that is sent to all creditors when the case is first filed and will generally occur about 30 days later. As a result, the deadline to file a non-dischargeability complaint will generally be about 90 days after the bankruptcy case is filed. That does not leave a creditor much time, and missing this deadline can result in the discharge of a debt that would otherwise be non-dischargeable, effectively barring you from recovery.

### Benefits of Timely Action

1. **Preserving Your Claim:** By filing a complaint within the Rule 4007 deadline, you ensure your debt is considered for non-dischargeability. If you delay, you risk losing the right to enforce repayment.
2. **Strengthening Leverage:** A timely filed complaint signals to the debtor and their counsel that you are serious about pursuing your claim. This may incentivize the debtor to settle the dispute, potentially saving you time and legal expenses.
3. **Post-Bankruptcy Recovery:** Obtaining a determination of non-dischargeability allows creditors to pursue collection efforts post-bankruptcy, including garnishments or liens.

### Tips for Creditors

- **Analyze your Claim:** Determine whether your claim against the debtor potentially meets the grounds of non-dischargeability under Section 523.
- **Gather Documentation:** Courts require clear proof of fraud, misconduct, or other criteria under Section 523(a). Gather and organize relevant documentation to support your claim.
- **Consult Legal Counsel:** Bankruptcy law is nuanced, and professional guidance ensures your claim is properly evaluated and pursued.
- **File Early:** Waiting until the last minute increases the risk of procedural errors or missed deadlines.

### Conclusion

Creditors have significant protections under Section 523, but these rights are generally not automatic. Acting promptly and within the relatively short time deadline is essential to preserve claims and maximize recovery. By understanding the nuances of non-dischargeable debts and seeking professional advice, creditors can effectively navigate the bankruptcy process while safeguarding their financial interests.