

BANKRUPTCY EXEMPTION GUIDE - CALIFORNIA

Prepared By
DAHL & DAHL, ATTORNEYS AT LAW
 2304 "N" St, Sacramento, CA 95816-5716
 Tel: 916 446-8800 — Web: www.DahlandDahl.com
 © 1999-2012

Disclaimer: This Bankruptcy Exemption Guide is prepared for the exclusive use of clients and prospective clients of Dahl & Dahl, Attorneys at Law, and may not be reproduced without advance written permission. This Guide is designed to provide only an illustration of the exemptions available within California. The selection of an exemption classification and its application to particular assets is a complex matter, and must be done on an individual basis. The dissemination of this Guide by this office does not constitute legal advice, nor is it an endorsement of the applicability or desirability of any exemptions for a particular situation.

Overview: Within a bankruptcy case, an individual, or a husband and wife, may claim certain of their assets exempt, and thus free from turn-over to the bankruptcy trustee. The rationale behind exemptions is to assist the "fresh start" of the bankruptcy discharge by allowing retention of certain assets deemed necessary or desirable to continuing and maintaining the household. In California, debtors may choose one of two exemption classifications, commonly referred to as the "Federal" exemptions or the "State" exemptions. A husband and wife must choose only one, even if they file separate bankruptcy petitions. Because Federal law does not currently recognize same-sex marriage, it may be possible for same-sex spouses to claim under different exemption classifications. Exemptions are not available for business entities.

"Federal" Exemptions – California Code of Civil Procedure § 703.140(b)		
703.140(b)(1)	<u>Homestead</u> – Equity in real or personal property actually used as residence.	\$22,075.00
703.140(b)(2)	<u>Motor Vehicle</u> – Equity in one motor vehicle.	\$3,525.00
703.140(b)(3)	<u>Furnishings, Clothing, Goods, Etc.</u> – Household goods, wearing apparel, appliances, books, animals, crops, or musical instruments held for personal, family or household use. (value is of any particular item)	up to \$550 per item
703.140(b)(4)	<u>Jewelry</u> – Total equity value of all personal or family jewelry.	\$1,425.00
703.140(b)(5)	<u>Wild Card</u> – \$1,175.00 equity, plus any unused portion of the homestead exemption, in any property.	\$1,175.00 to \$23,250.00
703.140(b)(6)	<u>Tools of Trade</u> – Equity in tools of trade, books or implements.	\$2,200.00
703.140(b)(7)	<u>Life Insurance Contract</u> – Any unmatured life insurance contract owned by debtor.	No stated limit
703.140(b)(8)	<u>Life Insurance Cash Value</u> – Value of accrued dividend, interest or loan value.	\$11,800.00
703.140(b)(9)	<u>Health Aids</u> – Professional prescribed health aids.	No stated limit
703.140(b)(10) (A), (B) & (C)	<u>Benefits</u> – Rights to receive social security, unemployment, public assistance, veterans', disability, or illness benefits.	No stated limit
703.140(b)(10)(D)	<u>Benefits</u> – Alimony, support or separate maintenance, to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(10)(E)	<u>Benefits</u> – Payments under stock bonus, pension, profit sharing, or	No stated limit

	annuity plan, if payment on account of illness, disability, death, age, or length of service, and only to extent necessary for support of debtor and dependents.	
703.140(b)(11)(A)	<u>Personal Injury Compensation</u> – Crime victim’s award	No stated limit
703.140(b)(11)(B)	<u>Personal Injury Compensation</u> – Wrongful death payment, if debtor was dependent of decedent, and only to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(11)(C)	<u>Personal Injury Compensation</u> – Life insurance payment, if debtor was dependent of decedent, and only to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(11)(D)	<u>Personal Injury Compensation</u> – Up to \$22,075.00 in payment of personal injury (not including pain and suffering nor compensation for actual pecuniary loss), for injury to debtor or to individual of whom debtor is a dependent.	No stated limit
703.140(b)(11)(E)	<u>Personal Injury Compensation</u> – Payment in compensation of loss of future earnings of debtor or an individual of whom debtor is a dependent, but only to extent necessary for support of debtor and dependents.	No stated limit
Additional Exemptions Available Under Bankruptcy Code §522(b)(3)(C) – Retirement funds in a fund or account exempt from income taxes under one of the following Internal Revenue Code Sections:		
IRC §401	Profit sharing plan [a “401(k) Plan”]	No stated limit
IRC §403	Plan established by public agency or tax-exempt employer	No stated limit
IRC §408	Traditional IRA	* see below
IRC §408B	Roth IRA	* see below
IRC §414	Employee benefit plan	No stated limit
IRC §457	Deferred compensation plan	No stated limit
IRC §501(a)	Tax-exempt employer plan	No stated limit
Excluding the value traceable from rollovers of other ERISA-qualified plans, the maximum exemption for all Traditional and Roth IRA accounts combined is capped at \$1,171,650 .		

“State” Exemptions – California Code of Civil Procedure § 704 et seq.		
704.720	<u>Homestead</u> – Equity amount in principal place of residence. Dwelling can be: conventional house and land, mobile home, boat or other vessel, condominium, planned development, stock cooperative, or community apartment project.	- see below -
704.720	Unmarried, with no dependents	\$75,000.00
704.720	Married & living together, or single with dependents	\$100,000.00
704.720	Either debtor or spouse is: (A) 65 or older, (B) Disabled, mentally or physically, or	\$175,000.00

	(C) 55 or older with annual income not more than \$15,000, or if married, with joint annual income not more than \$20,000	
704.010	<u>Motor Vehicles</u> – Equity in one or more vehicles.	\$2,725.00
704.020	<u>Household Goods & Clothing</u> – Furnishings, appliances, provisions, clothes, personal effects, if ordinarily and reasonably necessary to debtor and dependents at principal residence.	No stated limit
704.030	<u>Residence Improvement Materials</u> – Materials to be used to repair or improve the residence.	\$2,875.00
704.040	<u>Jewelry, Heirlooms, Art</u> – Total equity in jewelry, heirlooms, and works of art.	\$7,175.00
704.050	<u>Health Aids</u> – Health aids reasonably necessary to work or sustain health of debtor or dependents.	No stated limit
704.060	<u>Tools of Trade</u> – Total equity in tools, implements, instruments, materials, uniforms, furnishings, books, equipment, one commercial vehicle, one vessel and other property used in the business. Separate exemption allowed for spouse if trade requires tools. Exemption \$14,350 if spouse works in same business. Total exemption for a commercial motor vehicle cannot exceed \$4,850.00 per spouse, or \$9,700.00 if each work in same business.	\$7,175.00
704.070	<u>Paid Earnings</u> – Earnings paid within 30-days of filing, if traceable into cash or bank accounts. 100% exempt if wages then subject to a wage garnishment or wage assignment for support. 75% exempt if wages not then subject to garnishment or assignment.	No stated limit
704.080 (b)	<u>Deposit Account; Social Security or Public Benefits</u> – Up to \$2,875.00 in a bank account which receives direct deposits of social security payments, including retirement, survivor, supplement security income, coal miners' health and disability insurance benefits. If two or more account owners are each individually receiving such benefits, exempt amount is \$4,300.00. Up to \$1,425.00 in a bank account that receives direct deposits of public benefits. If two or more account owners are each individually receiving such benefits, exempt amount is \$2,150.00.	variable amounts
704.080 (c)	<u>Deposit Account; Social Security</u> – All funds held in a bank account which are traceable to payments authorized by the Social Security Administration are fully exempt.	No stated limit
704.090	<u>Deposits of Incarcerated Debtor</u> – Inmate trust funds held by public agency.	\$1,425.00
704.100	<u>Life Insurance Policies</u> – Total loan value of unmatured life policies. If married, exemption is doubled. Unmatured policies fully exempt, without dollar value. Benefits under matured policies (including annuity) exempt to extent reasonably necessary for support of debtor, spouse and dependents.	\$11,475.00
704.110	<u>Public Retirement Benefits</u> – All amounts held, controlled or in process of distribution as benefits from state, city, county or other public agency. All amounts received by debtor from public retirement system or from United States federal retirement.	No stated limit
704.113	<u>Vacation Credits</u> – All vacation credits or payments to public	No stated limit

	employee.	
704.115	<u>Private Retirement Benefits</u> – Benefits under private retirement plans, union retirement plans, profit-sharing plans, Keogh plans, and Individual Retirement Accounts are exempt to the extent necessary to provide for support of debtor, spouse and dependents when the debtor retires, taking into account all resources likely to then be available.	No stated limit
704.120	<u>Unemployment and Disability Benefits</u> – All benefits payable as unemployment and disability by state, employer plan, or union.	No stated limit
704.130	<u>Disability or Health Insurance</u> – All benefits under disability insurance or health insurance.	No stated limit
704.140	<u>Personal Injury</u> – Cause of action fully exempt. Damages or settlement exempt to extent necessary for support of debtor and dependents.	No stated limit
704.150	<u>Wrongful Death</u> – Cause of action fully exempt. Damages or settlement exempt to extent reasonably necessary for support of debtor and dependents.	No stated limit
704.160	<u>Workers' Compensation</u> – All claims and benefits.	No stated limit
704.170	<u>Charitable Aid</u> – All aid provided by charitable organization or fraternal benefit society.	No stated limit
704.180	<u>Relocation Benefits</u> – All claims and payments for relocation after displacement from residence.	No stated limit
704.190	<u>Financial Aid</u> – All financial aid provided by institution of higher learning for expenses while attending.	No stated limit
704.200	<u>Family Cemetery Plot</u> – Family plot, and plot for debtor and spouse.	No stated limit
706.050	<u>Accrued & Unpaid Earnings</u> – 75% of accrued earnings and unpaid. [15 U.S.C. Section 1673(a)].	No stated limit
<u>Additional Exemptions Available Under Bankruptcy Code §522(b)(3)(C)</u> – Retirement funds in a fund or account exempt from income taxes under one of the following Internal Revenue Code Sections:		
IRC §401	Profit sharing plan [a “401(k) Plan”]	No stated limit
IRC §403	Plan established by public agency or tax-exempt employer	No stated limit
IRC §408	Traditional IRA	* see below
IRC §408B	Roth IRA	* see below
IRC §414	Employee benefit plan	No stated limit
IRC §457	Deferred compensation plan	No stated limit
IRC §501(a)	Tax-exempt employer plan	No stated limit
Excluding the value traceable from rollovers of other ERISA-qualified plans, the maximum exemption for all Traditional and Roth IRA accounts combined is capped at \$1,171,650 .		