

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

GENERAL ORDER RE: PAYMENT OF
INCOME TAX REFUND TO CHAPTER 7 TRUSTEE

IT APPEARING desirable to establish a uniform procedure by which a chapter 7 trustee may ensure the bankruptcy estate receives that portion of a debtor's federal income tax refund that is estate property; and for cause shown; now, therefore,

IT IS HEREBY ORDERED, in any chapter 7 case in which the trustee determines the bankruptcy estate has an interest in a federal income tax refund to which the debtor is entitled, the trustee shall notify the Internal Revenue Service in writing of the estate's interest, referencing in the letter this General Order and attaching to the letter a copy of the Clerk's Notice of Chapter 7 Bankruptcy Case. The trustee shall also provide a copy of the letter to the debtor and any attorney for the debtor.

IT IS FURTHER ORDERED the Internal Revenue Service shall, upon being notified in writing of the bankruptcy estate's interest in the debtor's federal income tax refund, promptly pay over to the trustee the entire refund owing to the debtor. Upon receipt of the debtor's tax refund, the trustee shall promptly pay over to the debtor any portion of the tax refund that is not estate property, including any portion the debtor has claimed exempt, if the deadline for objecting to the claimed exemption has expired.

IT IS FURTHER ORDERED the debtor may, at any time after receipt of the copy of the trustee's letter to the Internal Revenue Service described above, but in no event later than any deadline to file an objection to the trustee's proposed distribution, file an appropriate pleading seeking the Court's determination of the extent of the bankruptcy estate's interest in the tax refund.

IT IS FURTHER ORDERED, if the debtor receives a federal income tax refund in which the bankruptcy estate holds an interest, the debtor shall immediately upon receipt pay the estate's share to the trustee.

So ordered this 15th day of December, 2008.

BY THE COURT:



Charles L. Nail, Jr.
Bankruptcy Judge