

What is this bankruptcy "Wild Card" I keep hearing about?

I keep hearing about a "Wild Card" and how important it is. Exactly what is it and how can it help me in my bankruptcy?

The "Wild Card" you've heard about is the so-called "Wild Card exemption". Exemptions are things you own that you get to keep away from the bankruptcy trustee and your creditors when you file a Chapter 7 bankruptcy (the one that gets rid of your debts quickly). As you can imagine, the subject of exemptions is a very important one.

California's two sets of exemptions

California has two sets of exemptions for bankruptcy, the 704 set and the 703 set, each named for the section of the California Code of Civil Procedure in which the exemptions are specified. You have to choose one set; you can't "mix and match".

The 704 set

The 704 set is sometimes called the Homestead set of exemptions because it contains larger exemptions for the home you live in if you need to protect the equity in your home from your creditors. The 704 set of exemptions does not contain a Wild Card exemption. If you don't own a home or are "underwater" in your home (you owe more than it's worth), you can use the 703 set of exemptions.

The 703 set

The 703 set of exemptions, sometimes called the Wild Card set of exemptions, contains a Wild Card exemption. It's written in an awkward way, spread across two code sub-sections, but simply stated it is an exemption of \$23,250 that you can use to exempt anything you own including any combination of things. That includes using it to "pick up" and exempt parts of assets that have been partially exempted from other specific exemptions.

Examples of the Wild Card exemption in a Chapter 7 bankruptcy

For simplicity, assume that you have no equity in a home to protect from creditors.

- You own a car worth \$10,000 and still owe \$3,000 on it, meaning that you have an equity of \$7,000 in the car. The California 703 motor vehicle exemption is \$3,525, which means that there would be $\$10,000 - \$3,525 = \$6,475$ of equity in your car that you could not exempt. That means the bankruptcy trustee could take your car and sell it, paying you the \$3,525 that you exempted, and give the rest of the proceeds to your creditors. BUT, instead of that happening, you can exempt that unprotected \$6,475 equity with the Wild Card exemption, leaving no unprotected equity remaining in your car. Therefore you get to keep it. You would then have $\$23,250 - \$6,475 = \$16,775$ remaining of the Wild Card exemption to apply to other assets.
- You have \$5,000 in the bank and \$8,000 worth of corporate stocks (not part of a retirement plan). You can exempt both of those, \$13,000 total, with the Wild Card exemption. That leaves $\$16,775$ (from the prior example) - $\$13,000 = \$3,775$ remaining of the Wild Card exemption to apply to other assets.

I think you get the idea. Also, note that compared to most other states, California has a generous Wild Card exemption.

The Wild Card exemption in a Chapter 13 bankruptcy

Since you get to keep your assets in a Chapter 13 bankruptcy, is the Wild Card exemption important in a Chapter 13? Yes, it's important because the minimum amount you have to pay your unsecured creditors (credit card debts, etc., not auto or home loans secured by property) over the life of your Chapter 13 payment plan is the amount those creditors would have received if you had filed a Chapter 7 bankruptcy. As we've discussed, the Wild Card exemption is very important in that Chapter 7 calculation and therefore it is very important in a Chapter 13 bankruptcy.

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