



TIP OF THE MONTH APRIL 2022

Federal Bankruptcy Exemptions Update

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As required by the United States Code, the dollar amounts listed in certain federal bankruptcy exemptions are updated to reflect changes in the Consumer Price Index every three years on April 1st, and 2022 is the third year, so we have an update. Available on VLN's website is a chart summarizing these updated exemptions that also lists our Minnesota exemptions alongside each of the related federal exemptions ([EXEMPTIONS SUMMARY CHART](#)). Minnesota exemptions are updated on July 1st on even numbered years (next update: 7/1/2022).

These federal increases, though keeping up with the Consumer Price Index, have never kept up with the reality in US housing and auto prices. The homestead exemption is now increased to a paltry \$27,900, and the auto exemption is updated to a miserly \$4,450. Clearly, neither is sufficient. In contrast, the federal household goods and wearing apparel exemption is now \$14,875 per person, even though our clients rarely need more than a few hundred dollars for these items. Perhaps the answer would be to substantially increase the so-called "wild card" exemption (11 U.S.C. Section 522(d)(5)), simplifying the process of matching assets to exemptions.

Nevertheless, the wild card exemption can usually be counted on to help cover the typical auto equity of our VLN clients, if they are filing with the federal exemptions. Yet, only recent home buyers with very little equity are able to use the federal homestead exemption. Thus, if you have a home, you'll almost certainly be using the Minnesota exemptions, for there the homestead exemption can be as much as \$450,000. Unfortunately, the Minnesota exemptions have too many holes in them without the aid of something like the federal "wild card" exemption. This leads to losses of things that may be essential to our clients but are not exempt under Minnesota law. This can include things like certain sources of money in bank accounts, tax refunds and many other non-exempt assets.

Thus, two key differences between the federal and Minnesota exemptions are found in the homestead exemption and Minnesota's lack of a "wild card" exemption (522(d)(5)). If someone has more equity in

their homestead than \$27,900, or \$55,800 in a joint filing, then they normally benefit the greatest by filing with the Minnesota exemptions, for Minnesota offers up to a \$450,000 homestead exemption. For renters, and those with little equity in their homestead, the federal “wild card” exemption (522(d)(5)), is a handy way to typically keep from losing any non-exempt property up to a potential maximum of \$15,425, or \$30,850 in a joint filing (note: the base exemption is \$1,475, per person, plus any unused portion of (d)(1) up to \$13,950).

Most bankruptcy software will allow you to compare the outcomes of choosing Minnesota or federal bankruptcy exemptions. Yet, it is normally decided by a few key facts and isn’t a close call. As noted, homestead equity is usually the deciding factor, but other exemptions can become key under the right circumstances. If you need help making this decision, VLN is always willing to help you. Additionally, VLN offers mentors to help attorneys learn the ropes.