



OUTLINE – FRIDAY JULY 19 2013

[Book: King's Discharging Taxes in Consumer Bankruptcy Cases](#)

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Press star + 6 X to be heard – after my brief intro

1. Introduce the Academy
2. Today's issue – The McCoy rule – 5th Circuit (Texas, Louisiana, Mississippi,
3. Brief precis – what is the McCoy rule?
4. Rejected by IRS
5. You may now press *6 to comment or ask question
6. Cases that have explicitly rejected McCoy
7. Most recent case – Pendergast
 - State income taxes
 - Taxes assessed first – then return filed
 - Returns late – state law apparently includes temporal element in defining a return - Hence, taxes not dischargeable based on McCoy
8. Question put to me – if IRS and debtor agree, then what's the problem?
 - If state taxes (income as well as dischargeable sale taxes)
 - Skips over the real IRS issue – is a post-assessment return a return?
 - What if the IRS changes its mind?
9. Strategy – take the question away from the judge –

For IRS income taxes:

- Pre-filing – Contact Insolvency
- Post-filing – Get a stipulation from the IRS
- After discharge litigation started – get a stip from the IRS
- If state tax - ???

Have you had any cases involving this issue with IRS since McCoy (Jan. 2012)?