

Attorney Michael Goldstein Unveils Circuit Split on Tax Debt Discharge

Guide addresses a First Circuit rule that can permanently block bankruptcy discharge of Massachusetts tax debt tied to a late-filed return.

MANSFIELD, MA, UNITED STATES, September 9, 2026 /EINPresswire.com/ -- As Massachusetts residents begin evaluating their financial standing ahead of year-end planning, [Attorney Michael Goldstein](#), Of Counsel to Phillips Law Offices, has published a guide addressing a bankruptcy rule specific to Massachusetts filers seeking to [discharge old income tax debt](#). The guide focuses on a First Circuit standard that permanently blocks discharge of certain tax debt tied to late-filed returns, regardless of how many years pass before a bankruptcy case is filed.

Federal tax debt generally must clear three separate tests before a bankruptcy court will discharge it: the return's due date, including any extension, must fall more than three years before the filing date; the return must have actually been filed at least two years before filing; and the tax must have been assessed at least 240 days before filing, or not yet assessed. All three tests come from provisions of the Bankruptcy Code that incorporate federal tax law by reference.



Bankruptcy Attorney Michael Goldstein

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The guide addresses a distinction specific to Massachusetts filers. In *Fahey v. Massachusetts Department of Revenue*, (779 F.3d 1 (1st Cir. 2015)) the First Circuit Court of Appeals, which covers Massachusetts, held that a state income tax return filed even one day after its due date does not qualify as a "return" for bankruptcy purposes. As a result, the two-year filing clock never starts, and the tax tied to that return is permanently excepted from discharge no matter how much time passes. The First

Circuit was later asked to revisit the ruling and declined. The guide notes that the Eleventh Circuit applies a more flexible standard weighing the full circumstances of a late filing, and that the Supreme Court has declined to resolve the difference between the two approaches.

"Massachusetts residents often assume that if a tax debt is old enough, bankruptcy will wipe it out entirely," said Attorney Michael Goldstein. "The Fahey decision means the filing date matters as much as the age of the debt itself, and a return filed even one day late can permanently take discharge off the table."

Guidance in the piece is general in nature, and how these rules apply depends on an individual filer's specific tax years, filing history, and assessment dates. The guide also addresses two related points often left out of general tax-debt content. Late-filing and late-payment penalties run on an independent three-year clock and are often dischargeable even when the underlying tax survives. Additionally, a Chapter 7 discharge eliminates personal liability for a dischargeable tax debt but does not remove a Massachusetts Department of Revenue lien already recorded against a filer's property, since the lien represents a separate claim against the property rather than against the individual.

The full analysis, including the three-part timing test and how the Massachusetts rule diverges from other circuits, is available in the published guide on tax debt discharge at <https://attorneymichaelgoldstein.com/discharge-tax-debt-in-bankruptcy/>

Attorney Michael Goldstein serves as Of Counsel to Phillips Law Offices, LLC, and maintains an independent practice representing Massachusetts individuals in Chapter 7 and Chapter 13 bankruptcy matters. Goldstein has been licensed to practice law in Massachusetts since 2006 and has represented filers navigating federal and state tax debt issues, including cases applying the timing rules governing discharge of personal income tax debt.

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