

\$1,512,350 IS THE NEW \$1,362,800

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When you file for bankruptcy, one thing you usually don't have to worry about is protecting your IRA funds from creditors.

That's because, in just about every case, all of your IRA (and Roth IRA) monies are off limits. Under the federal bankruptcy law, IRA assets up to a certain dollar limit cannot be reached by creditors. That dollar limit is indexed every three years based on the cost-of-living. The current dollar limit is currently \$1,362,800, but on April 1 it goes up to \$1,512,350 until March 31, 2025.

That limit is especially generous because it doesn't take into account rollovers from employer plans like 401(k) plans. (Those rolled-over dollars are always fully protected.) So, only IRA contributions themselves, and earnings on those contributions, are taken into account. Since IRAs did not become available until 1975, it would be a rare case for someone to have amassed over \$1.5 million from IRA contributions and earnings alone.

Of course, the \$5 billion Roth IRA owned by Peter Thiel, a cofounder of PayPal, is a notorious exception to that rule. If you're also an IRA owner lucky enough to have contributory IRAs worth more than the federal dollar limit, you may have two other ways to shield your entire IRA portfolio in bankruptcy.

First, you may live in a **state** that has its own state bankruptcy laws protecting all of your IRA funds in bankruptcy – no matter how large (in other words, without the \$1,512,350 cap).

The second way is if you live in a state with an anti-garnishment law. That's a law that says your IRAs can't be reached to pay off a non-bankruptcy legal judgment (for

example, when you must pay lawsuit damages). In the recent case of [Hoffman v. Signature Bank of Georgia, No. 20-12823 \(11th Cir. 2022\), January 24, 2022](#), a Georgia resident filed for bankruptcy. Georgia is a state that completely protects IRAs from garnishment. The Eleventh Circuit Court of Appeals ruled that the existence of the Georgia anti-garnishment law, a **non-bankruptcy** law, fully protects a resident's IRA dollars in **bankruptcy**. (Don't ask me to explain; it's complicated.) That would be the case even if the IRA assets exceed the \$1.5 million cap.

A couple of points about the Hoffman decision. First, it technically only affects you if you live in the Eleventh Circuit – Alabama, Florida and Georgia. Second, it would never apply if you live in a state that doesn't have an anti-garnishment law like Georgia's.

But, remember, even if your state doesn't have its own laws to protect your IRAs, you can always rely on the federal protection up to \$1,512,350 (come April 1). For most people, that should be more than enough.

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