

BANKRUPTCY EXEMPTION GUIDE - CALIFORNIA

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Overview: Within a bankruptcy case, an individual or a married couple may claim certain of assets exempt, and thus free from turn-over to the bankruptcy trustee. The rationale behind exemptions is to assist the "fresh start" of the bankruptcy discharge by allowing retention of certain assets deemed necessary or desirable to continuing and maintaining the household. In California, debtors in bankruptcy may choose one of two exemption classifications, commonly referred to as the "703" exemptions or the "704" exemptions. Married persons **must** choose only one exemption classification, even if they file separate bankruptcy petitions. Exemptions are not available for business entities.

Valuation & Appreciation: As of January 1, 2023, the valuation of property claimed exempt is determined as of the petition date. As to a residence which was fully-exempt at the petition date, any appreciation in value during pendency of the bankruptcy case is also exempt. [CCP § 703.140(c)]

Adjustments: The exemptions set forth in this Guide are effective as of **1-Jan-2024**, except for the amount under § 704.220, which was effective 1-Jul-2023. The next scheduled adjustments of the 703 & 740 exempt amounts are due:

1-Jan-2025	Homestead exemption under § 704.730 [* - see below]
1-Jul-2024	§ 704.220
1-Apr-2025	for all other exemptions

"703" Exemptions – California Code of Civil Procedure § 703.140(b) [spousal waiver no longer required if living separate and apart, unless spouses share joint ownership of property that could be exempted as a homestead under 704.720]		
703.140(b)(1)	<u>Homestead</u> – Equity in real or personal property actually used as residence.	\$29,275
703.140(b)(2)	<u>Motor Vehicles</u> – Equity in one or more motor vehicles.	\$7,500
703.140(b)(3)	<u>Furnishings, Clothing, Goods, Etc.</u> – Household goods, wearing apparel, appliances, books, animals, crops, or musical instruments held for personal, family or household use. (value is of any particular item)	Up to \$800 per item
703.140(b)(4)	<u>Jewelry</u> – Total equity value of all personal or family jewelry.	\$1,900
703.140(b)(5)	<u>Wild Card</u> – \$1,550 equity, plus any unused portion of the homestead exemption, in any property.	\$1,550 up to \$30,825
703.140(b)(6)	<u>Tools of Trade</u> – Equity in tools of trade, books or implements.	\$9,525
703.140(b)(7)	<u>Life Insurance Contract</u> – Any unmatured life insurance contract owned by debtor.	No stated limit
703.140(b)(8)	<u>Life Insurance Cash Value</u> – Value of accrued dividend, interest or loan value.	\$17,075
703.140(b)(9)	<u>Health Aids</u> – Professionally prescribed health aids, and vehicles	No stated limit

	converted for use by or for disabled debtor, spouse or dependent.	
703.140(b)(10)(A), (B) & (C)	<u>Benefits</u> – Rights to receive social security, unemployment, public assistance, veterans', disability, or illness benefits.	No stated limit
703.140(b)(10)(D)	<u>Benefits</u> – Alimony, support or separate maintenance, to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(10)(E)	<u>Benefits</u> – Payments under stock bonus, pension, profit sharing, or annuity plan, if payment on account of illness, disability, death, age, or length of service, and only to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(10)(F)	Employee Benefits - Vacation credits, or accrued or unused vacation pay, sick leave, or wages, as defined in Cal. Labor Code § 200	\$7,500
703.140(b)(11)(A)	<u>Personal Injury Compensation</u> – Crime victim's award	No stated limit
703.140(b)(11)(B)	<u>Employment Settlement</u> - Payment under settlement agreement arising out of or regarding debtor's employment, to extent necessary for support of debtor, spouse or dependents.	No stated limit
703.140(b)(11)(C)	<u>Personal Injury Compensation</u> – Wrongful death payment, if debtor was dependent of decedent, and only to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(11)(D)	<u>Personal Injury Compensation</u> – Life insurance payment, if debtor was spouse or a dependent of decedent, and only to extent necessary for support of debtor and dependents.	No stated limit
703.140(b)(11)(E)	<u>Personal Injury Compensation</u> – Up to \$31,950 in payment of personal injury, for personal bodily injury to debtor, spouse or to individual of whom debtor is a dependent.	Up to \$31,950
703.140(b)(11)(F)	<u>Personal Injury Compensation</u> – Payment in compensation of loss of future earnings of debtor or an individual of whom debtor is or was spouse or dependent, but only to extent necessary for support of debtor, spouse and dependents.	No stated limit
703.140(b)(12)	<p><u>Golden State Scholarshare Trust Account</u> - Monies in Golden State Scholarshare account(s) owned by debtor. Exemption limit is per beneficiary, not per account.</p> <p>Amount exempt for monies contributed in 365 days prior to petition cannot exceed the annual gift tax exclusion under IRC § 2503(b) in effect as of petition date. [\$17,000 for calendar 2023; adjusted annually]</p> <p>Amount exempt for monies contributed in period commencing 730 days and ending 365 days prior to petition cannot exceed the annual gift tax exclusion under IRC § 2503(b) in effect as of petition date. [\$16,000 for calendar 2022; adjusted annually]</p>	<p>Varies depending upon who owns the account, and number of beneficiaries</p> <p>Cost of living adjustment annually per Internal Revenue Code</p>

“704” Exemptions – California Code of Civil Procedure § 704 et seq.		
704.720	<u>Homestead Defined</u> – Equity in “dwelling” which is debtor’s principal place of residence. Dwelling can be: conventional house and land, mobile home, boat or other vessel, condominium, planned development, stock cooperative, or community apartment project.	- see below -
704.730	<u>Homestead Amount</u> - The greater of: (1) the median sales price of single family homes located in the same county for the prior calendar year, not to exceed \$697,000, or (2) \$348,500 * * Annually on January 1, the amounts adjust by the % change in the California CPI - All Urban (rounded to nearest \$25) as published by the California Dept of Industrial Relations, which generally occurs in mid-Feb. Once published, the increased amounts are effective for cases filed January 1 or later. [2023 = 3.9%; 2022 = 7.3%]	\$348,500 - min to \$697,000 - max
704.010	<u>Motor Vehicles</u> – Equity in one or more vehicles; proceeds of execution sale of a motor vehicle; and proceeds of insurance for loss damage or destruction of a motor vehicle. Proceeds of a vehicle are exempt for 90 days after actually received by debtor.	\$7,500
704.020	<u>Household Goods & Clothing</u> – Furnishings, appliances, provisions, clothes, personal effects, if ordinarily and reasonably necessary to debtor and dependents at principal residence.	No stated limit
704.030	<u>Residence Improvement Materials</u> – Materials to be used to repair or improve the residence.	\$3,825
704.040	<u>Jewelry, Heirlooms, Art</u> – Total equity in jewelry, heirlooms, and works of art.	\$9,525
704.050	<u>Health Aids</u> – Health aids reasonably necessary to work or sustain health of debtor or dependents, including vehicles converted for use by or for disabled debtor, spouse or dependent.	No stated limit
704.060	<u>Tools of Trade</u> – Total equity in tools, implements, instruments, materials, uniforms, furnishings, books, equipment, one commercial vehicle, one vessel and other property used in the business. Separate exemption allowed for spouse if trade requires tools. Exemption limit is \$19,050 if debtor and spouse work in same business. The maximum tool of trade exemption which may be applied to a commercial motor vehicle is \$4,850 per spouse, or \$9,700 if each work in same business.	\$9,525 or \$19,050
704.070	<u>Paid Earnings</u> – Earnings paid within 30-days of filing, if traceable into cash or bank accounts. 100% exempt if wages then subject to a wage garnishment or wage assignment for support. 75% exempt if wages not then subject to garnishment or assignment.	No stated limit
704.080 (b)(1); (3)	<u>Deposit Account - Public Benefits</u> – Up to \$1,900 in a bank account that receives direct deposits of public benefits (other than social security benefits) for a single payee. If the deposit account receives direct deposits on behalf of two or more payees, the exemption is up to \$2,825.	\$1,900 or \$2,825

704.080 (b)(2); (4)	<u>Deposit Account - Social Security Benefits</u> – Up to \$3,825 in a bank account which receives direct deposits of social security benefits (including retirement, survivor, supplement security income, coal miners' health, and disability insurance benefits) for a single payee. If the deposit account receives direct deposits on behalf of two or more payees, the exemption is up to \$5,725.	\$3,825 or \$5,725
704.080 (c)	<u>Deposit Account - Traceable Benefits</u> – Without regard to the dollar limits of §704.080(b), all monies traceable as social security benefits or public benefits which remain in the bank account which received direct deposits of such benefits are fully exempt.	No stated limit
704.090	<u>Deposits of Incarcerated Debtor</u> – Inmate trust funds held by public agency, if not subject to restitution order.	\$1,900
704.100	<u>Life Insurance Policies</u> – Total loan value of unmatured life policies. If married, the exemption amount is doubled. Unmatured policies fully exempt, without dollar value. Benefits under matured policies (including annuity) exempt to extent reasonably necessary for support of debtor, spouse and dependents.	\$15,250
704.105	<u>Golden State Scholarshare Trust Account</u> - Monies in Golden State Scholarshare account(s) owned by debtor. Exemption limit is per beneficiary, not per account. Amount exempt for monies contributed in 365 days prior to petition cannot exceed the annual gift tax exclusion under IRC § 2503(b) in effect as of petition date. [\$17,000 for calendar 2023; adjusted annually] Amount exempt for monies contributed in period commencing 730 days and ending 365 days prior to petition cannot exceed the annual gift tax exclusion under IRC § 2503(b) in effect as of petition date. [\$16,000 for calendar 2022; adjusted annually]	Varies depending upon who owns the account, and number of beneficiaries Cost of living adjustment annually per Internal Revenue Code, not California
704.110	<u>Public Retirement Benefits</u> – All amounts held, controlled or in process of distribution as benefits from state, city, county or other public agency. All amounts received by debtor from public retirement system or from United States federal retirement.	No stated limit
704.111	<u>Family Support</u> - Alimony, support, and separate maintenance, to the extent reasonably necessary for the support of debtor and any dependent	No stated limit
704.113	<u>Vacation Credits</u> – Vacation credits or payments to public employee.	\$7,500
704.115	<u>Private Retirement Benefits</u> – Benefits under private retirement plans, union retirement plans, profit-sharing plans, Keogh plans, and Individual Retirement Accounts are exempt to the extent necessary to provide for support of debtor, spouse and dependents when the debtor retires, taking into account all resources likely to then be available.	No stated limit
704.120	<u>Unemployment and Disability Benefits</u> – All benefits payable as unemployment and disability by state, employer plan, or union.	No stated limit

704.130	<u>Disability or Health Insurance</u> – All benefits under disability insurance or health insurance.	No stated limit
704.140	<u>Personal Injury</u> – Cause of action fully exempt. Damages or settlement exempt to extent necessary for support of debtor and dependents.	No stated limit
704.150	<u>Wrongful Death</u> – Cause of action fully exempt. Damages or settlement exempt to extent reasonably necessary for support of debtor and dependents.	No stated limit
704.160	<u>Workers' Compensation</u> – All claims and benefits.	No stated limit
704.170	<u>Charitable Aid</u> – All aid provided by charitable organization or fraternal benefit society.	No stated limit
704.180	<u>Relocation Benefits</u> – All claims and payments for relocation after displacement from residence.	No stated limit
704.190	<u>Financial Aid</u> – All financial aid provided by institution of higher learning for expenses while attending.	No stated limit
704.200	<u>Family Cemetery Plot</u> – Family plot, and plot for debtor and spouse.	No stated limit
704.210	<u>Property Not Subject to Attachment</u> – All property which is not subject to enforcement of a money judgment [e.g.: rights to distributions from a “spend-thrift” trust]	No stated limit
704.220	<u>Minimum Basic Standard</u> – Monies in a deposit account up to the minimum basic standard of adequate care for a family of four in Region 1, as established by the Cal. Dept of Social Services pursuant to W & I Code § 11452. Adjusted annually on July 1.	\$2,080
704.225	<u>Monies Necessary For Support</u> – Monies in a deposit account, not otherwise exempt, to the extent necessary for the support of the debtor, spouse and dependents	No stated limit
704.230	<u>FEMA Monies</u> – Monies provided to the debtor by the Federal Emergency Management Agency	No stated limit
706.050	<u>Accrued & Unpaid Earnings</u> – 75% of accrued earnings and unpaid. [15 U.S.C. § 1673(a)].	No stated limit

Additional Exemption for Social Security Benefits: All monies paid or payable, and rights to receive Old-Age, Survivors, and Disability Insurance benefits from the Social Security Administration are fully exempt under 42 U.S.C. § 407(a).

Additional Exemptions Available Under Bankruptcy Code §522(b)(3)(C) – Monies in a fund or account which is exempt from income taxes under one of the following Internal Revenue Code Sections:		
IRC §401	Profit sharing plan [a “401(k) Plan”]	No stated limit
IRC §403	Plan established by public agency or tax-exempt employer	No stated limit
IRC §408	Traditional IRA	* see below
IRC §408B	Roth IRA	* see below
IRC §414	Employee benefit plan	No stated limit
IRC §457	Deferred compensation plan	No stated limit
IRC §501(a)	Tax-exempt employer plan	No stated limit
Excluding the value traceable from rollovers of other ERISA-qualified plans, the maximum exemption for all Traditional and Roth IRA accounts combined is capped at \$1,512,350 . [11 U.S.C. § 522(n) - to be adjusted 1-April-2025]		

Exclusions From Property Of The Estate: The following funds are excluded from property of the bankruptcy estate by Bankruptcy Code §541(b), and thus have the equivalent effect of claiming an exemption:		
IRC §530(b)(1)	Monies in an Education IRA contributed at least 365 days before the filing date, and: <ul style="list-style-type: none"> (a) only if beneficiary is child, step-child, grandchild or step-grand child of Debtor. (b) excluding “excess contributions”. (c) no more than \$7,575 of all funds placed in all accounts for a single beneficiary within 365 and 720 days before filing date. 	No stated limit on funds contributed prior to 720 days before the bankruptcy filing date
IRC §529(b)(1)	Monies in a qualified State 529 Plan contributed at least 365 days before the filing date, and: <ul style="list-style-type: none"> (a) only if beneficiary is child, step-child, grandchild or step-grand child of Debtor. (b) excluding any amounts not permitted under IRC §529(b)(6) for a particular beneficiary. (c) no more than \$7,575 of all funds placed in all accounts for a single beneficiary within 365 and 720 days before filing date. 	No stated limit on funds contributed prior to 720 days before the bankruptcy filing date