

Chap 7..13

Bankruptcy Blotter



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THE PRUDENT PRACTITIONER

Decoding the Transcript

By Rosemary E. Williams*

In the last issue, the Prudent Practitioner discussed the procedures and purposes for admittance to practice before the Internal Revenue Service. One of the more important purposes is to obtain transcripts or copies of an actual or prospective debtor's returns and tax information to identify any potential priority debt or nondischargeable obligation. That column led to comments and questions by readers, to one of which this column is devoted, and others about nondischargeability which may be addressed in a future column.

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From the Editor

The new rules affecting time limits (effective 12/1/2009) seemed to sneak up on a lot of courts. We are updating the forms as quickly as possible as we hear from the courts and from you:

- 1) If your district is updating forms you use on a regular basis and you have not yet let us know, please contact us with specifics. Send us a link to the new form or just give us the form number and district, but please stay in touch with us.
- 2) If your local forms have not yet been updated in the program, please let us know if you need help importing PDF documents into the program. Also, the PDF editor inside the program can be used if only minor changes need to be made.
- 3) We are working diligently on another release for the end of January, but many local forms can be sent to you before then if we know you need them.

Again please stay in touch.

Your Chap 7..13 Project Team

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Personal liability for income taxes is dischargeable if the debt meets the three-year rule for the tax year, the two-year rule for a timely tax return, or a 240-day rule for assessment, as applicable to the case facts. One critical method to prevent premature bankruptcy filings when one of these statutes is close to expiration is to determine the date of filing, assessment and payment of the debtor's tax obligations for the preceding three years, even if the debtor states that all returns were timely filed and nothing is owed. To that end, the practitioner commonly will obtain either a tax transcript for a particular year, or a transcript of the debtor's "individual master file."¹ However, the proper interpretation of this data, especially if the master file is ordered, can be difficult because of the coding and abbreviations used by the IRS.² Understanding this coding can also alert the practitioner to the potential for some nasty pending or prospective events (such as a pending allegation of tax fraud).

A. Transcripts and content

In general, a transcript will show some combination of dates of assessments, outstanding credits, tax payments made for specific years, balances owed, or refunds pending, return filing dates, and in some types of transcripts, other data such as pending IRS civil or criminal actions or investigations, amended return dates, and other important information.

The common type of transcript requested for a given tax year for an individual debtor is the MFTRAX, which is literally a transcript of a return showing the nature of the tax, any balance owed, the amount of tax reported by the taxpayer on the return and the number of exemptions claimed, the date the return was due or filed, whichever is later, the date of assessment, the date on which any lien was filed (not, unfortunately, where), and the date of filing and termination of any offer in compromise. If a practitioner calls the IRS hotline and asks for a transcript of a specific year or years, this is what will be sent absent a specific request for another type. For an individual 1040, this type of transcript of a specific year's return will show most line items contained on the return as it was originally filed, including any accompanying forms

and schedules.³ Where the debtor is a natural person who has been employed for wages or salary without operating any business, and there are no warning signs appearing in the other fact checking, this type of transcript should be sufficient.

Caution: This type of transcript will not show an amended filing, nor any of the other landmines the master file may contain.

In other words, this simple form of basic data should be sufficient to identify the amount of any priority claim and suggest a tax debt for a recent tax period is nondischargeable. While there are codes on this type of transcript, each code generally is followed by an explanation; for example, "166 Late Filing Penalty [date]."

Useful as this basic transcript is, it has serious shortcomings—one major one being that it does not reflect any changes made affecting the return after the return was originally filed and another being it covers only a specific year. To obtain that data and other basic information, it is necessary to obtain a "tax account transcript," which includes post-filing adjustments made either by the taxpayer or the IRS, the taxpayer's marital status, the type of return filed, adjusted gross income, and taxable income in addition to the information described above. This type of transcripts is available for the current and three prior calendar years.⁴

A copy of an actual tax return can be obtained from the IRS, but there is a fee and delivery may be delayed, even for admitted practitioners. Copies generally are available for returns filed for the current and previous five years. Certified copies can be obtained for judicial presentation. For those with lots of time, the debtor can order these directly from the Service. The best course is to use Form 4506-T-EZ "Short Form Request for Individual Tax Transcript," pay the \$57 fee for each tax year requested, and wait the 60-75 days for the copies to be delivered, or call 800-829-3676 and wait for incredibly long periods of time to order the phone. See <http://www.irs.gov/individuals/article/0,,id=214477,00.html> for links to download the forms for this purpose for individual and business returns.

Note: If only a minimum of data is needed, a SUMRY transcript providing a summary of active tax years and

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accounts can be ordered. This type of transcript includes tax years with amounts due, outstanding returns not yet filed, and any accounts with frozen credits or refunds to be issued.

B. Batch requests for non-IMF transcripts

In the rare event a non-master file is appropriate, the “Automated Non-Master File” transcripts can be obtained nationwide via online transcript requests. This system is used to process returns that cannot be included in the Master File. The reasons for this type of transcript show how uncommon this file is. For example, when new tax laws require immediate implementation, but the IRS does not have time to modify the Automatic Data Processing (ADP of course) system it uses, this type of transcript is available. Also where “jeopardy” assessments, or immediate assessments (24-36 hours) are made, the master file system will not show these for several days after the event.

C. Individual Master File transcripts

If more detail is needed about a client’s tax status, or if the practitioner suspects something may be amiss, a TXMOD transcript, or “individual master file” (“IMF”) contains more detailed, and more current, account information than any other type of transcript. The equivalent for a business is a Business Master File, or BMF. These transcripts include all status of all notices outstanding, history items, and pending transactions. This transcript includes current tax year information and returns for up to five prior years where returns were filed. This transcript can include some of the less usual tax form filings, such as F1096, F1042, F1098, F1099, Sch K-1, F5498, F8300 and F8362. The Social Security Administration provides data reported on W-2s, W-3s, and W-4s. And the Customs Service reports International Transportation of Currency or Monetary Instruments (CMIR).

There are two broad types of IMFs. The preference when an IMF is necessary is reflected on the first page of the transcript as “IMF MCC⁵ TRANSCRIPT-COMplete.” This transcript will present the most data and cover multiple years. A transcript labeled “IMF MCC TRANSCRIPT-SPECIFIC” is also available which contains the same types of data, but for a specified year only.

The first page of the transcript will identify whether the transcript is complete or specific, and will list EMP NO XX-XXX-XXXXX.⁶ This sometimes seems like an error as it is neither the debtor or the practitioner’s SSN or EIN. The number actually is identification of the IRS employee who accessed the IRS’ Integrated Data Retrieval System (IDRS of course) to generate the file.

Caution: Master files do not have audit trails; instead, the file interfaces to systems that maintain their own audit trails.

Sadly, the data on this transcript, while extensive, is prefaced with IRS codes, the more important of which commonly are without attendant explanations.

D. ADP coding

Besides the basic information, the IMF contains a record of red flag entries, such as additional taxes assessed, abated or collected, assessment dates for penalties and interest, fraud penalties (320), an intent to audit (420), rejection of an offer in compromise (481) as opposed to mere termination, the pendency of additional liabilities not yet assessed (570), and the reference of a return which has been “referred to examination (595).⁷ Thus an IMF is much more detailed than a transcript and can alert a practitioner to further inquiry because of possible fraud, audit review, or civil and criminal penalties.

There are other red flags in the coding which will draw a practitioner’s extra attention. Occasionally the practitioner might see “TC 148 HOLD IS P.” This code identifies a tax protester account. Another is “1992 Name line year,” representing the name listed on the return for the earliest available year. If this name does not match the debtor’s stated name, further inquiry is necessary so that the trustee’s question about the discrepancy can be properly anticipated and met. If the debtor filed a return under a different name, that information can appear on the transcript, but where it does not, it is important to verify the social security number as well as the tax data. The explanation may be as simple as a marriage or marital termination, but then again it may not. Best to know ahead of the trustee.

The presence of some types of “freeze” codes, starting as FZ, should be noted. Master file processing uses alpha codes to identify certain conditions through a transaction code. Not all alpha codes indicate the freezing of an account, but some, such as assessment/abatement actions, pending refunds, offsets, issuance of a Taxpayer Delinquent Account (TDA) balance due notice, or suspension of a Collection Statute Expiration Date are critical to nondischargeability determinations.

Sidenote: Copies of a debtor’s master file or transcript for a given year may be obtained by telephone request as described in the last column. However, where such data is necessary for multiple debtors, the practitioner will want to use the IRS’ “e-Services,” a suite of web-based products that permits access to multiple files 24/7 via the internet. All tax professionals who register⁸ for this can use other products, such as disclosure authorization, preparer tax identification number application and transcript delivery systems without regard to whether the original returns were e-filed. And best of all, delivery is fast, certainly compared to mailed requests.

There is no need here to revisit BAPCPA's requirement, and prospective threat, that debtor's counsel undertakes every time a new client is accepted. This type of fact-checking should be routine, at least at the basic levels, but is also another way of identifying prospective problems (and prospective problem clients) without disturbing any applicable privilege. In essence, the purpose of these transcripts is to help the practitioner find and prepare a response to a tax problem before the petition is filed.

Be sure to include in the fees and costs the charge of obtaining these transcripts. It is minimal, especially when assessed in every case.

NOTES

1. "Integrated Data Retrieval System," or IDRS, transcripts are described at length in Chapter 20, Section 2, of Part 8 "Appeals" and is happily available online at http://www.irs.gov/irm/part8/irm_08-020-002.html.
2. Patrick J. Lyon kindly provides an extensive list and definitions of codes found on most IMF on taxpayers at <http://www.cleland-insurance.com/imfcodes.html>. This list contains coding for almost any situation, but its length alone places it far beyond the space available for this column.
3. This is what is provided when requesting a transcript through the Additional Services menu in Chap 7..13: http://www.asuitesolution.com/pdf/sample_tax_transcript.pdf.
4. See the previous issue (<http://west.thomson.com/products/books-cds/chap7/blotter-40694910.pdf>) of the Bankruptcy Blotter for instructions on obtaining this type of transcript.
5. Martinsburg Computer Center, Martinsburg, West Virginia.
6. The first two numbers are the office location of the employee, the second set of three numbers is the unit or section to which the employee is assigned, and the last five numbers represent that employee's actual identification number.
7. See "Tax Transcripts" by Morgan D. King, a noted authority on tax discharge issues, at http://www.abiworld.net/newsletter/banktaxation/vol1num2/material_03.pdf for a well done article including a keyed sample transcript illustrating basic codes.
8. The data and procedure for registration are described and processed from <http://www.irs.gov/taxpros/article/0,,id=109646,00.html>. AGI from a current or prior year's filed return is a surprising, but necessary, part of the enrollment. This is to verify the prospective enrollee's identity. Online tutorials on the use of this system are available from the webpage as well.

Our Most Recent Releases

We've been very busy these past few months, with three web releases (8.3, 9.1 and 9.2) and a CD release (9.0). Please see the article elsewhere in this newsletter about the contents of the 9.0 CD.

Version 8.3, released in October, contained updated U.S. Census Bureau median family income figures, six new or updated chapter 13 plans, an updated official form and two updated local forms. Version 9.1 included seven updated official forms effective 12/1/09, three updated chapter 13 plans and one updated local form. We also resolved the issue regarding the tab function in the Case Information window, fixed an overlapping text issue on the means test and resolved an issue with e-filing in the Northern District of Illinois in Version 9.1.

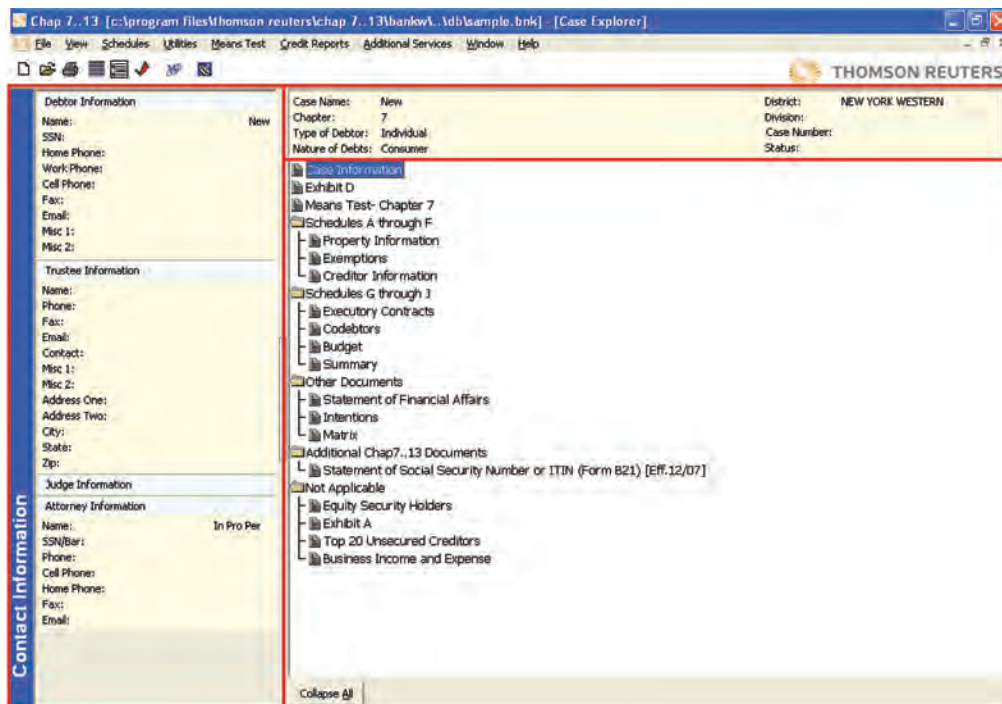
Version 9.2, released in mid-December, includes five updated chapter 13 plans, one updated local form, updated California and Wisconsin exemptions, an updated copyright notice, and resolution of some programming bugs.

Version 9.3 will be released to customers as early as late-January. As always, let us know what you'd like to see in upcoming updates.

New Features in Chap 7..13 Version 9.0

- Compatibility with Vista 64 bit and Windows 7 operating systems
- Contact information and basic case information is now available on the Case Explorer Window (see screenshot)
- Case List Window Updates including:
 - Radio buttons changed to drop-down controls
 - Controls added to display cases by district
 - District drop-down control dynamically selects districts that have been used in the workspace
 - When a user right-clicks on the case list, they can change or edit columns (see screenshot)
 - Double-clicking on a column header will sort or reverse sort that column and display an asterisk
- Fields for attorney's and debtor's cell phone numbers, fax numbers and email addresses added to Case Information Window
- Improved Office Notes screen by adding several new fields, including Date, Type of Communication, Follow Up Date, Follow Up Action, Notes and Creator's Initials (see screenshot)
- Updated Print Reports Window buttons
- Added trustees and judges to Common Parties List
- Added filters and contact information to Common Parties List
- Added judge and trustee drop down lists to Case Information Window, displaying Common Parties List and allowing the user to select a judge or trustee from that list
- Oversecured (under water) claims can now be edited

New Contact and Case Information on Case Explorer Window



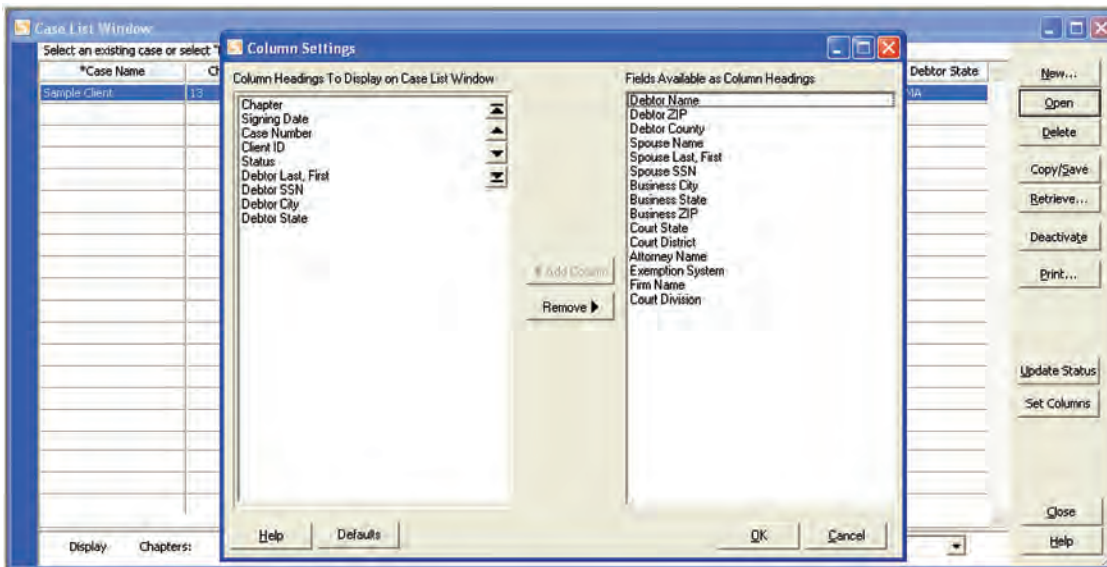
- Users may now directly change the unsecured portion of a secured claim
- Status and Internal Client ID fields have been added to Case Information Window
- Revised Chap 7..13 Help

Chap 7..13 Tips

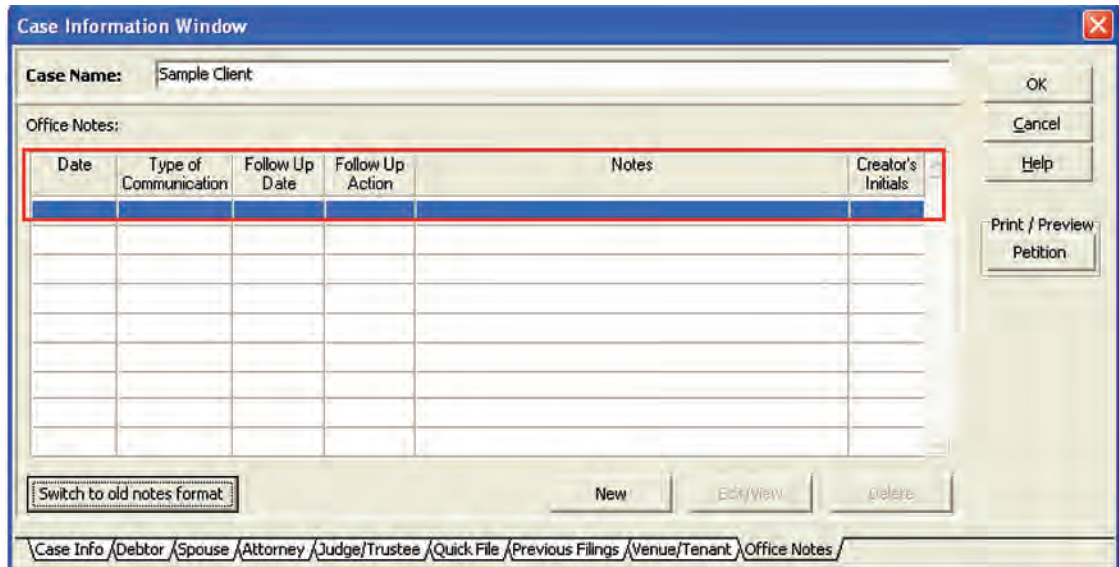
Version 9.0 Reboot Needed

Chap 7-13 Version 9.0 utilizes a new PDF writer. When installing, updating, or reinstalling this new version, BE SURE TO REBOOT YOUR COMPUTER. Regardless of which version of Windows you have, it is necessary for the machine to be rebooted so that the new PDF writer (PDF-XChange Chap713 PDF Writer 4.0) gets properly configured.

Editing Columns in Case List Window



New Office Notes Screen



Where is the Control-Tab Feature?

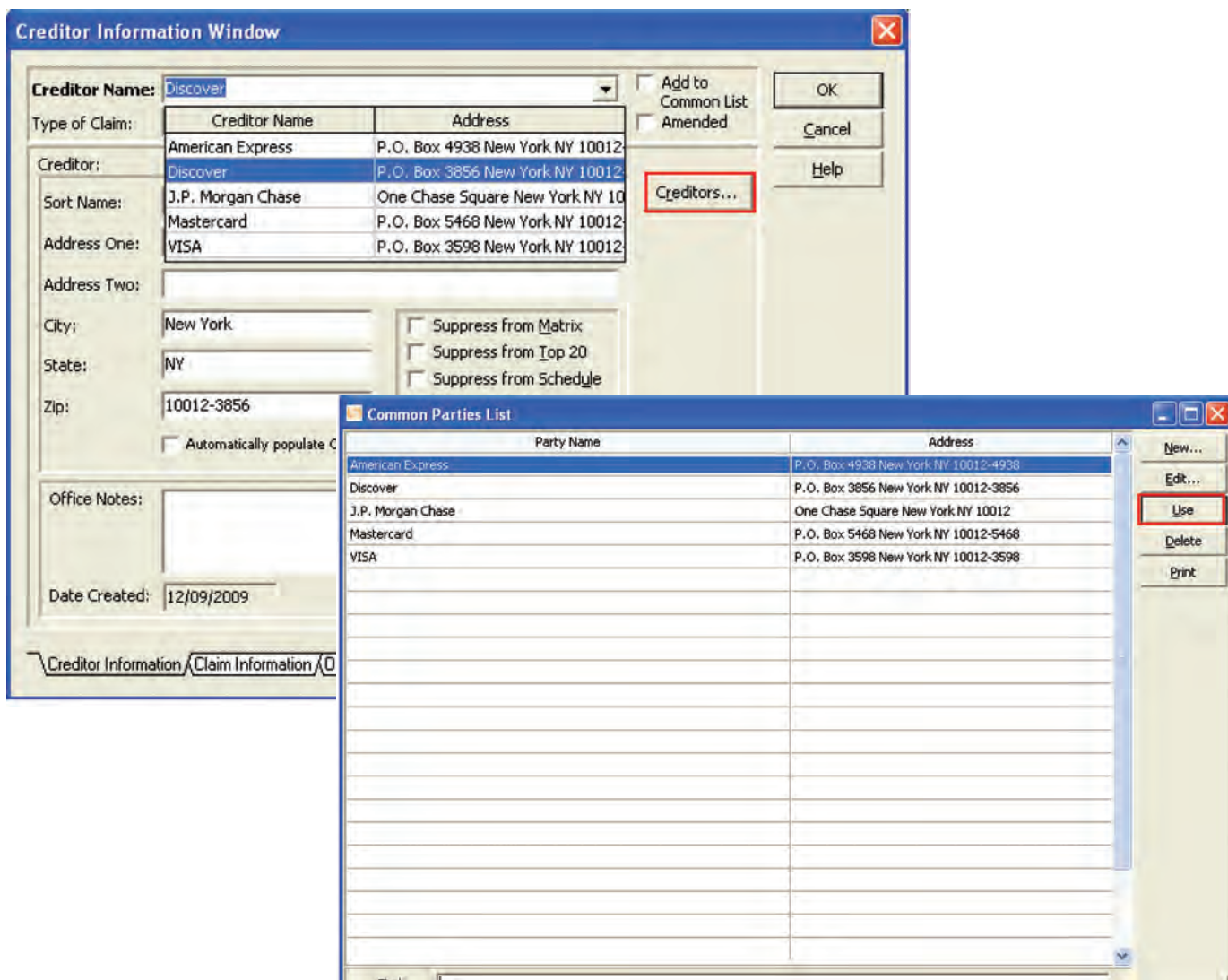
Many of you have inquired as to what happened to the feature which would facilitate navigation between tabs on a Window by pressing the Control and Tab buttons simultaneously. We have had problems with this feature since the release of the Version 9.0 CD, and we are hoping to fix it as soon as possible. In the meantime, using ALT-Page Up or ALT-Page Down will work on all of the data entry windows.

How do I get creditors to auto-fill in the fields on the representative window?

A recent editorial adjustment to Chap 7..13 changed the “Common Creditors” and “Common Representatives” to “Common Parties.” Once you are in the Common Parties List, all common parties corresponding to the data entry field from which you accessed the Common Parties List are available. For example, when you access the Common Parties List from the creditor windows, common creditors appear. To access representatives, just select the “Representatives” checkbox at the bottom of the Common Parties List window.

You can add Common Parties to your case in one of two ways. For example, to add a common creditor to your case, go to the Creditor List Window, click “New,” and either:

- 1) Toggle the drop down list from the “Creditor Name” field and select the creditor you want to add to your case (see screenshot), or
- 2) Click on the “Creditors” button next to the “Sort Name” field, then highlight the creditor you want to add





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