



INDIVIDUAL BANKRUPTCY

Understanding the Differences

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Many people mistakenly believe that filing for bankruptcy means they will lose all of their assets. In fact, the opposite is true. Bankruptcy is a way to protect your money and property from aggressive creditors who can use the courts to seize your possessions.

CHAPTER 7

VS

CHAPTER 13

Basic Differences

- Most common type of bankruptcy, often called 'liquidation bankruptcy' as non-exempt assets are sold to pay creditors.
- Sometimes the "preferred" choice because it offers a clean slate, discharging most debts, in ~3-6 months.
- Often the preferred bankruptcy option for those who have barely enough income for basic living expenses.
- Chapter 7 remains on your credit report for up to 10 years.
- Your post-bankruptcy income is yours and not subject to garnishment by your creditors.
- Must pass a "Means Test" to qualify:
 - Last 6 months income must be less than the state's median income.
 - And, may not have disposable income to repay debts via Chapter 13.
- Chapter 7 bankruptcy can only be filed once every eight years.
- No minimum amount of debt required to file Chapter 7.
- Immediate protection from collections and wage garnishment.

- Chapter 13 is usually the best option when the debtor wishes to keep non-exempt assets or business property at the end of a bankruptcy.

Also helpful to debtor by changing the payment terms of secured creditors, such as lowering interest rate and monthly payments.

- As a general rule, Chapter 13 is the bankruptcy option for individuals who can pay their living expenses, but not their debts.

- Chapter 13 remains on your credit report for 7 years.

- Typically provides a 3-5 year repayment plan that allows debtors to fulfill their obligations to creditors and still discharge some debts entirely.

- Your income after filing for Chapter 13 is used to pay your debts according to the repayment plan.

- Chapter 13 can be filed, repeatedly, at any time.

- Immediate protection from collections and wage garnishment.

96% of all bankruptcy filings are non-business consumer bankruptcies. In 2013 there were approx. 1.03 million consumer bankruptcies filed, compared with 812,898 twenty years prior.

What About Your Property?

All non-exempt assets are taken over by a bankruptcy trustee to sell, using the proceeds to pay creditors.

In most cases, Chapter 7 does not result in a stay of foreclosure actions if the debtor is behind on mortgage payments.

Co-signers on your debts can be held responsible, unless they also declare bankruptcy.



If you can manage the repayment plan, you are able to keep all exempt and non-exempt property.

A Chapter 13 filing will stop mortgage foreclosure actions and give you more time to catch up the missed payments during the Chapter 13 case.

Chapter 13 can often stop the repossession of a vehicle by forcing the creditor into a new repayment plan. Debtors may be eligible for a 'cramdown' option.

If the repayment plan provides for full repayment of the debt, co-signers are immune from collection efforts.

Healthcare is the #1 cause of personal bankruptcy. 62% of all personal bankruptcies are due to medical expenses.

And How About Taxes? Or Student Loans?

While there are some tax debts eligible for discharge, most owed taxes are not wiped out in Chapter 7.

Typically, student loans are not discharged in a Chapter 7 – unless the debtor meets the "undue hardship" criteria.



Tax debts are usually paid during the Chapter 13 bankruptcy – but they are not discharged completely.

Chapter 13 will not provide long-term relief from student loans, but may allow you to make lower payments during the 3-5 year bankruptcy period.

The second most common reason cited for personal bankruptcy is loss of job-related income. This includes job loss or significantly reduced pay.

Any Help for Child Support or Alimony?

Child Support debts and other domestic support obligations are considered "priority debts" and are non-dischargeable in bankruptcy proceedings.

Child Support, maintenance and alimony payments are non-dischargeable in bankruptcy and the debtor is responsible for making those payments post-bankruptcy.



Child Support debt and obligations are considered "priority debt" and are paid ahead of other creditors from your monthly payments to the Chapter 13 Trustee..

Chapter 13 does not discharge or forgive child support, maintenance or alimony payments, but it gives you more time to catch up the arrearage.



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