

• **Will I have to pay all my debt?** No. Most debtors will not have to pay back all general debt. Plans can be approved which pay less than is owed.

• **How do I start a Chapter 13 Bankruptcy?** As in a Chapter 7, the debtor prepares schedules listing all debts and assets, and a budget. The budget must provide enough money to pay basic living expenses and have enough left to pay creditors. Based on the debtor's budget, a plan is prepared showing how the debtor proposes to pay the creditors.

• **Will I have a hearing?** In Chapter 13 cases, a meeting of creditors is held. A trustee, not a judge, supervises this meeting and may ask questions of the debtor and creditors. Once the plan is approved, the debtor receives an Order of Confirmation.

• **What if I can't make the payments set out in the Plan?** On occasion, a debtor cannot continue to make the payments set out in the plan. The debtor has the right to convert the Chapter 13 to a Chapter 7.

Alternatives to Bankruptcy

There are agencies who offer consumer debt counseling. These agencies are set up to assist people in working out budgets and paying debts. These agencies are free to the debtors. Their expenses are funded by the credit industry. If a person has regular income, these arrangements can be very effective. Consumer Credit Counseling Service provides consumer debt counseling. You may contact them at 1-800-882-0808.

Also, a debtor may want to talk to an attorney about work-out arrangements. Sometimes, the attorney can negotiate a settlement with creditors. These arrangements can be particularly effective where there is a limited number of creditors.

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WHAT IS BANKRUPTCY



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What is Bankruptcy?

Bankruptcy is a court proceeding designed to provide debtors with a “fresh start” or debt relief. There are several types of bankruptcies. This material discusses Chapter 7 and Chapter 13 bankruptcies; the types most often used by consumers.

Chapter 7 – Sometimes called “liquidation” or “straight” bankruptcy. In Chapter 7, a trustee is appointed to sell the debtor’s non-exempt property and distribute the proceeds to creditors. The debtor normally obtains a “discharge” or release from most debts. Chapter 7 is usually effective in dealing with debts such as credit cards, medical bills, and other general obligations. A Chapter 7 case will usually last a few months.

Chapter 13 – Sometimes called a “wage earner plan.” In Chapter 13 the debtor makes a fixed monthly payment to the Chapter 13 trustee who then distributes the money to the creditors. In exchange for making monthly payments, the debtor may retain possession of his/her assets and will receive a discharge at the conclusion of his repayment plan (usually 3 to 5 years).

Whether you should file Chapter 7 or 13 is best decided between you and your attorney.

Chapter 7 Bankruptcy

• **What will I have to pay to file a Chapter 7 Bankruptcy?** The amount an attorney will charge differs between attorneys. In addition, there is a filing fee that must be paid to the U.S. Bankruptcy Court in order to file a bankruptcy.

• **How do I start a bankruptcy?** The debtor prepares paperwork with the attorney. This paperwork is referred to as bankruptcy “schedules.” On the schedules, a debtor lists all of his/her debts and assets.

• **What if I don’t list all my debts or assets?** If a debt is not listed, the creditor is not bound by the bankruptcy, which means the debt will not be discharged. A debtor cannot conceal assets in a bankruptcy. If the debtor does not truthfully list all assets, the debtor will not be entitled to be discharged on the debt. Concealment of assets in a bankruptcy constitutes a federal crime.

• **Will I lose everything I have if I file bankruptcy?** No. The debtor is entitled to keep certain property. This property is referred to as being kept under the “debtor’s exemptions.” It is important to determine if a debtor’s property is within the allowed exemptions. In Missouri, these exemptions include:

Homestead – A debtor is allowed to have \$15,000 equity in a residence. This exemption is the same in an individual or joint bankruptcy.

Vehicle – A debtor is allowed to keep a vehicle worth up to \$3,000. This exemption is \$6,000 in a joint bankruptcy.

Household goods – A debtor is allowed to keep household goods with a value of up to \$3,000. This exemption is \$6,000 in a joint bankruptcy.

Jewelry – A debtor is allowed to keep a wedding ring not to exceed \$1,500 in value and other jewelry not to exceed \$500 (or \$1,000 in a joint bankruptcy).

There are certain general exemptions that can be applied to any property. These exemptions include:

Head of Household – A debtor is allowed an exemption of \$1,250 if the debtor is head of the household, plus \$350 for each unmarried dependent child.

Floating exemption – A debtor is allowed a “floating” exemption of \$600, which can be applied to any property the debtor chooses. This exemption is \$1,200 in a joint bankruptcy.

Exempt income – Social Security benefits, unemployment benefits, and public assistance benefits cannot be reached by creditors. These incomes are exempt in a Chapter 7 bankruptcy.

Generally, alimony and child support are also exempt. However, there are dollar limits on these exemptions. You should discuss any alimony or child support payments you receive with your attorney.

• **If I bought household goods I still owe money on, do I have to give them back?** If a debt is secured by property (such as a lien on household goods), the debtor may have several options. These options include:

Reaffirm – A debtor may be able to reaffirm a debt. This means the debtor keeps the property and continues to pay for it.

Surrender – A debtor may surrender the property. This means the debtor pays no more money, but must give up the property.

Redemption – A debtor may seek a redemption. This means that the debtor could pay back only the present value of the property, and still keep the property. The debtor would not have to pay back the full debt.

• **I borrowed money to pay off a bill using my furniture to secure the loan. Will I lose my furniture?** No. Often, creditors make loans and secure the loans by household goods the debtor already owns. This type of lien can possibly be removed by the bankruptcy and the debtor can keep the property.

• **Are some debts not affected by a Chapter 7 Bankruptcy?** Yes. Generally, these debts may include such things as child support, student loans, and debts incurred by fraud. Tax debts may not be discharged unless they are of a certain age. Your attorney can advise you on the restrictions for discharging these types of debts.

• **Credit Counseling** – To be eligible for bankruptcy, all individual debtors must have received credit counseling from an approved credit counseling agency within 180 days before filing. Very limited exceptions apply in emergency situations. Additionally, all debtors in Chapter 7 and Chapter 13 cases must attend a financial education course after filing their case.

• **Will I have a hearing?** Most debtors attend only one meeting which is held with several other cases during a set hour. A trustee, not a judge, supervises this meeting and may ask questions of the debtor(s). Most debtors have no direct contact with the judge.

• **How will I know my bankruptcy is final?** When the case is concluded, the debtor will receive an Order of Discharge in the mail.

Chapter 13 Bankruptcy

• **What will I have to pay to file a Chapter 13 Bankruptcy?** The amount an attorney will charge differs between attorneys. In addition, there is a filing fee that must be paid to the U.S. Bankruptcy Court in order to file a bankruptcy.

• **Why would I want to pay more for a Chapter 13 Bankruptcy?** A Chapter 13 provides for repayment of debts under a court plan. If a debtor has equity in a home or vehicle that exceeds the exemptions in a Chapter 7, the property would be sold. In a Chapter 13, the debtor can retain more property.

Also, there are certain debts which are not dischargeable in a Chapter 7 Bankruptcy. A Chapter 13 would help the debtor get these debts under control.