



Getting Out of Debt Is Easier Than You Think: Bankruptcy Basics



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In today's difficult economic climate, where property values have decreased rapidly and unemployment rates and the costs of living continue to rise, people are finding it difficult to make ends meet. Even a small financial setback such as an unexpected medical issue or a temporary loss of employment can result in overwhelming debt. Fortunately, filing a bankruptcy petition is a simple and efficient way to help solve your financial woes and put you on the road to a life free from debt. Here are some basics to help you decide whether bankruptcy is the right choice for you:

1) Won't Filing Bankruptcy Ruin My Credit and Financial Future?

Absolutely not. In fact, carrying a significant amount of debt or failing to pay your bills in a timely manner can harm your credit score. After filing bankruptcy and receiving your discharge, you can apply for and use credit cards to start rebuilding your credit score, immediately. In addition, because a Chapter 13 requires a debtor to be on a budget for a series of months, those debtors will be well accustomed to controlling their finances by the time they receive their discharge, and will be ready to take on their financial future.

2) What "Chapter" Should I File and What Are the Differences Between Them?

Most individuals will file a petition in bankruptcy under what is called Chapter 7

or Chapter 13 of the Bankruptcy Code. A Chapter 7 is a liquidation proceeding where a trustee can take and sell any "non-exempt assets" for the benefit of your creditors. You will receive a discharge of your debt within about four months from the date of filing. The law allows you to claim exemptions for your property including cars, personal goods, your home, and even life insurance policies. Most people who file a Chapter 7 petition will be able to claim all of their property is subject to an exemption and be able to keep all of their assets thus, leaving no "non-exempt" assets for the trustee to liquidate.

A Chapter 13 involves a repayment plan where you repay a portion of your debt over a series of months. Chapter 13 filers typically have assets that would otherwise be subject to liquidation in a Chapter 7 proceeding. One significant benefit of a Chapter 13 filing is, under certain circumstances, you may be able to strip away a second mortgage from your home.

3) Am I Eligible To File?

There are income limits for people filing a Chapter 7 petition which are set according to where you reside and the number of people in your household. For example, the income limit for a four person family living in Monmouth County is \$103,786, after deducting allowable expenses. For Chapter 13 filers, there is no income limit, but a person must be earning a regular wage and be able to pay back a portion of the debt. Also, if you have previously filed a bankruptcy and received a discharge, certain waiting periods apply before you can receive another discharge.

4) Can I Discharge All of My Debt?

No, not all debts are dischargeable. While

most debt arising from credit cards, medical bills, deficiencies from a repossession or foreclosure will be wiped away in a bankruptcy (with some exceptions); other debts are not dischargeable. These include most taxes, fines or penalties owed to the government, most student loan debts, debts arising from false financial statements or fraud, and child support obligations. In addition, any debt you incur after the filing of your petition will not be dischargeable. This includes condominium fees, medical bills, and utility bills. Finally, a bankruptcy will only discharge personal debt. If you have a debt secured by an asset, such as a mortgage or car loan, in order to keep the asset, you must make the monthly payments or risk losing the asset.

5) What Other Benefits Can I Expect From Bankruptcy?

Aside from the discharge, one of the most significant benefits of filing bankruptcy

is known as the "automatic stay." This is a powerful tool which temporarily stops foreclosures, evictions, repossessions and collection activities such as wage garnishments and bank account seizures from proceeding against you. The automatic stay gives you a breathing spell which relieves some of your financial pressures and allows you try and resolve some of your financial issues with your creditors.

While the bankruptcy laws are highly technical and seemingly complex, they can help you get the debt relief you need for a fresh financial start. If you are having financial difficulties, or have questions about how bankruptcy could help you and your family, you should consult with an experienced attorney who can help you decide the best course of action.

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