Which Do I file: Chapter 7 or 13?

Types of Consumer Bankruptcy

There are two common types of consumer bankruptcy: **Chapter 7** and **Chapter 13**. The easiest, fastest, and most common bankruptcy for people is a Chapter 7.

Chapter 7 Bankruptcy

Chapter 7 bankruptcy is called a "liquidation." Don't be scared by this term! It means that if you have "non-exempt" property, the bankruptcy trustee will take that property and sell it to pay your creditors. REMEMBER: in most Chapter 7 bankruptcies, the debtor (the person who filed the bankruptcy case) does not have any "non-exempt" property for the trustee to take and sell. This situation is called a "no-asset Chapter 7" case. A few months after you file for bankruptcy, most of your unsecured debts (bills like credit cards and medical bills) are wiped away, or "discharged."

How To Know If Chapter 7 is Right for You

- You have very little, or no, property that's worth a lot of money.
- You do not have enough income to pay your debts and everyday living expenses.
- You have mostly "dischargeable" debt, like credit cards or medical bills.
- You cannot pay the court filing fee. In a Chapter 7, you can ask the Court to waive (forgive) your fee.

Chapter 13 Bankruptcy

A Chapter 13 bankruptcy is called a "reorganization." This means that you suggest a 3-to-5-year plan to repay your secured debts (like a car loan). A Chapter 13 plan is like a math problem – you need a certain amount of money left over after you pay your monthly expenses for the plan to work.

How To Know If Chapter 13 is Right for You

You must have a good reason to file a Chapter 13 because 1) it's harder to complete without an attorney, and 2) it requires you to make payments for 3-to-5 years. Good reasons to file this kind of bankruptcy include:

- You are behind on your house or car payments, but you still want to keep the property. You can pay back those past-due amounts in the Chapter 13 payment plan.
- Your income is too high for you to file a Chapter 7. In this situation, Chapter 13 is an option.
- You already received a Chapter 7 bankruptcy discharge in a case filed within the last eight years. Sometimes people face new financial difficulties after finishing a Chapter 7 bankruptcy and need to consider a Chapter 13. You can file a Chapter 13 and get a discharge four years after filing Chapter 7.

Which Do I file: Chapter 7 or 13?

Chapter 7

- **Liquidation:** completed in 4 to 5 months
- No income needed
- Cannot save a house or car if you are behind on payments
- Filing fee can be waived
- Stays on credit report up to 10 years

Chapter 13

- **Reorganization:** completed in 3 to 5 years
- Must have steady income
- Allows you to catch up on back payments on houses and cars
- No waiver of filing fee
- Stays on credit report up to 7 years

Glossary of Terms Found In This Handout

Bankruptcy Trustee The person who oversees your bankruptcy case. The Trustee is different than a judge and does not work for the bankruptcy court.

Chapter 13 Plan A 3-to-5-year debt repayment plan that lets the debtor repay their debts during the bankruptcy case without having to sell their property.

Debtor A group or person who owes money to a creditor and may file bankruptcy.

Discharge A Court Order finding your debts are wiped clean.

Dischargeable Debt Debt that can be wiped clean at the end of a successful bankruptcy such as credit cards, personal loans, and medical bills.

Exempt Property Property that your creditors cannot take and you are allowed to keep in your bankruptcy (also called “protected property”).

Liquidation In a Chapter 7, a trustee will liquidate, or sell, all the debtor’s “non-exempt” property to pay creditors.

No-Asset Chapter 7 A situation when the debtor does not own any “non-exempt” property for the bankruptcy trustee to sell. Most Chapter 7 bankruptcy cases are “no asset Chapter 7” cases.

Non-dischargeable Debt Debt that you must continue to pay back after bankruptcy (examples: child support and spousal maintenance or alimony).

Non-Exempt Property Property that the law does not protect from creditors, meaning that your creditors can take it to pay off a debt. You are also not allowed to keep “non-exempt” property if you file for bankruptcy.

Reorganization In a Chapter 13 bankruptcy, you file a “reorganization plan,” also called the “Chapter 13 Plan” as part of the bankruptcy. You then pay back some of your debts as part of this plan.

Secured Debts A debt is “secured” if a creditor can take the property if you do not pay the debt (examples: home mortgage or a car loan).

Unsecured Debts A debt is “unsecured” if the creditor does not have a right to take your property if you do not pay back the money (examples: credit cards and medical bills).