

WHAT SHOULD YOU KNOW ABOUT BANKRUPTCY?

Bankruptcy is a legal proceeding in which a person who cannot pay his or her bills can get a fresh financial start. The right to file for bankruptcy is provided by federal law, and all bankruptcy cases are handled in federal court. Filing bankruptcy **IMMEDIATELY** stops all of your creditors from seeking to collect debts from you, at least until your debts are sorted out according to the law.

Which Type of Bankruptcy Should I File?

Most people filing bankruptcy will want to file under either Chapter 7 or Chapter 13. Either type of case may be filed individually or by a married couple filing jointly. Your spouse is not required to file but may want to because he or she may be a co-signor on your debts.

- **Chapter 7** is known as "straight" bankruptcy or "liquidation." It allows you to get rid of most of your debts and start over with a clean slate. It requires debtors to give up property which exceeds certain limits called "exemptions," which is then sold to pay creditors. Most of the time, you will not lose any of your property.
- **Chapter 13** is called "debt adjustment" or "wage earner's plan". It enables individuals with regular income to develop a plan to repay all or part of their debts. Under this chapter, debtors propose a repayment plan to make installments to creditors over three to five years. You decide your monthly payment based on your budget and debts.

Fees and Payment Plans

You can pay fees through **convenient payment plans** or all at once. Initial fees are due before filing.

- **Chapter 7 Attorney fees** are paid in advance ***before filing***.
- **Chapter 13 Attorney fees** require partial payment ***before filing***. The remaining Attorney fees are paid through the Bankruptcy Repayment Plan.
- **Court Filing Fees** are paid in advance before filing: **Chapter 7**: \$335 **Chapter 13**: \$310

For more information and online forms, visit bktab.com/current-clients

This brochure cannot explain every aspect of the bankruptcy process.

Questions? Concerns? Call our office at 314-644-0303. Please, no walk-in appointments.

FREQUENTLY ASKED QUESTIONS: BANKRUPTCY



What will Bankruptcy do for me and why do people file Bankruptcy?

Bankruptcy will IMMEDIATELY stop your creditors from trying to collect from you. It will stop harassing calls and letters, lawsuits, garnishments, repossessions and foreclosures. There are many reasons people decide to file Bankruptcy. The most common reasons are loss of job or decrease in income, excessive medical bills or being over extended with your credit card bills.

What's the difference between receiving a Discharge and a Dismissal from the Bankruptcy Court?

- **Discharge:** You get a fresh start! You completed your case and followed all the rules.
- **Dismissal:** You didn't follow the rules. You don't get a fresh start and may have to file another Bankruptcy to start over.

Are all of my debts the same?

No. There are 3 main categories of debts: secured, unsecured and priority.

- **Secured:** Debt which has collateral. If you don't pay, you have to surrender the property.
 - Examples: Houses, cars, furniture and appliances.
 - **NOTE:** If you borrowed money & gave a security interest in your household goods, it's a secured loan.
- **Unsecured:** Debt which does not have collateral. The creditor only has your promise to pay.
 - Examples: Credit cards, medical bills, magazine and book subscriptions.
- **Priority:** Debts owed to governments or classified by the Bankruptcy Code as *Priority*.
 - Examples: Taxes (Federal & State; personal property & real estate; sales), child support.

What happens to all of my debts when I file?

It depends on which chapter you file.

- If you file Chapter 7, you will Reaffirm and continue to pay your secured debts if you want to keep the property. If you don't want the property, you can surrender it. The debt then becomes unsecured and is discharged along with your other unsecured debts. Your priority debts will be unaffected and you will continue to pay them.
- If you file Chapter 13, all of your bills (except your mortgage) are consolidated into 1 monthly payment. Secured creditors will be paid the balance due on their loan with the Court approved interest rate (which is typically less than the interest rate you are currently paying). Priority debts will be paid in full. Unsecured debts will generally be paid only a small percentage of the amount owed if they are paid anything at all.

Do I have to include all of my debts?

Yes. One of the requirements is that you treat each category (secured, unsecured or priority) of creditors equally. If you include some creditors in your case but not others, you are not treating them equally. The court can dismiss your case for failure to follow the rules. In some cases, you may be accused of committing fraud for intentionally failing to include all creditors.

Will I lose any property?

That's up to you. **In order to keep secured property, you must pay for it.** As long as you continue to pay, you keep it. If you **own** property that is valuable, the Trustee may want you to make a choice of either surrendering that property or paying the value of that property to your creditors. This is an issue we would discuss **before** we file your case.

Do I have to have a certain amount of debt before I file?

No. The issue is whether you are having difficulty paying the debts that you do have. Bankruptcy can discharge a single debt, or many.

How long does this whole process take?

A **Chapter 7** generally takes 4 months. A **Chapter 13** is a debt consolidation plan which will last a minimum of 36 months and a maximum of 60 months. The types of debts you have, the amounts you owe and your budget will determine the length of your repayment period.

Will bankruptcy affect my home loan modification?

If you have been approved for a home loan modification of your mortgage and have completed the trial period, bankruptcy will not affect the changes the modification has made. However, if you are in the application or trial period of a home loan modification, filing a bankruptcy will stop the process and you will have to restart the application. It is solely up to the discretion of the Mortgage company to offer or approve a loan modification. As your bankruptcy attorneys, we do not participate in the negotiation or application process. Consult your lender for more information.

Who determines my monthly payment in a Chapter 13?

It's based on your budget and what you can afford to pay. You are required to make your best effort. However, if you can't afford to pay the minimum required, you can surrender some things.

What about co-signers?

If someone co-signed for you and you discharge your liability through Bankruptcy, the creditor may try to collect the debt from the co-signer. If you want to protect the co-signer, you can agree to pay the debt back in full. You decide how you want to handle this situation.

What about utility bills?

You can include utility bills in your Bankruptcy. This will stop the utility company from turning off your utilities if they are threatening to do so. You must be aware that the utility company can require you to pay a deposit for future service. If you only owe for your current service and can work out an arrangement with the utility company to bring that amount current, it may be cheaper for you to make those arrangements and not have to pay a deposit. Only you can make that decision. Don't let your service be interrupted if you really don't have the ability to pay the past due amounts.

Will I have to go to Court?

You will have to attend at least one hearing whether you file a Chapter 7 or Chapter 13. It's called the Meeting of Creditors (or Section 341 Meeting). This Meeting is usually about a month after your case is filed. A Trustee will be appointed by the Court to review your case. The Trustee will ask you questions about the answers you provided when you completed your initial documents. It usually takes less than five or ten minutes for the Trustee to complete these questions. In a Chapter 13, there is one more hearing called the Confirmation hearing. This is when your case goes before the Bankruptcy Judge for final approval of your repayment plan. You don't have to attend the Confirmation Hearing and most of my clients choose not to. However, you are welcome to attend if you desire. **An Attorney from our office will go to both hearings.**

How will bankruptcy affect my credit rating?

The fact that you filed bankruptcy may be on your credit report for up to 10 years. However, the fact that you are paying your bills late every month is usually on your credit report for 7 years. **Bankruptcy provides a "fresh start" and future creditors will see that you are no longer burdened with debts that you can't pay.** Additionally, you can explain the reasons you had financial problems and how your situation has changed. I can't offer any guarantees as to how easy or difficult it will be. It will take some time to reestablish your good credit rating but you can do it and you can begin as soon as you receive your Discharge.

Are there any debts that can't be discharged?

Yes. Generally, taxes, student loans and child support payments will not be discharged. However, there are exceptions. These debts can be repaid through a Chapter 13.

How often can I file Bankruptcy?

You can only receive a discharge under Chapter 7 once every 8 years. You can file a Chapter 13 more frequently. However, the Bankruptcy Judge may ask you for an explanation about why you have filed so many times.

How can I get copies of my credit report after Bankruptcy?

To get copies after your discharge, visit AnnualCreditReport.com or call 877-322-8228.

Credit Reporting Agencies: Equifax 800-685-1111 / Experian 888-397-3742 / Trans Union 800-888-4213

TOP 10 THINGS TO KNOW: CHAPTER 7 BANKRUPTCY

1	Upon filing your case, the court appoints a Chapter 7 Trustee to investigate your property and finances, verify your paperwork, and determine if there are any nonexempt property or funds available to repay your creditors. You will be questioned by the trustee at your §341 Meeting of Creditors (you will receive a Notice of Commencement from the Court with the date and location). At this Meeting, the Trustee will ask if you have read the 527(b) Form and your §341 Notice. You must read it <u>before</u> you get to the Meeting. You must bring the following: 1) Photo ID; 2) Proof of Social Security Number; 3) <u>All</u> Bank Statements showing your balances on the date the case is filed.	
2	Secured Loans - a loan in which the borrower pledges an asset as collateral. - If you want to keep your home and your car, you must call the creditor to make sure your account is current. Then, you must continue to pay the monthly note ON TIME. - If you are surrendering real estate in your bankruptcy, you are responsible for the yard maintenance and insurance until the actual foreclosure sale occurs removing the home from your name (this is <u>not</u> the same as your bankruptcy discharge).	
3	All Federal and State tax returns must be filed. If they have not been filed (<u>mailed</u> to the IRS or Missouri Department of Revenue), you must do so immediately. Both agencies check their records to see if they have copies on file. They will provide copies of your transcripts. You can do this for FREE!! Tell them you are filing Bankruptcy & <u>always</u> keep a copy of the Tax Returns in your files.	
	Internal Revenue Service (IRS) 1222 Spruce St. St. Louis, MO 63103 (800) 908-9946 www.irs.gov	Missouri Department of Revenue (MDOR) P.O. Box 2200 Jefferson City, MO 65105-2200 (573) 751-3505 income@dor.mo.gov
4	The <u>Bankruptcy Court</u> notifies your creditors of your case by <u>mailing</u> notice to your creditors based on the information and addresses you provide. If your creditors don't get a copy of the Notice that you filed, YOU MAY STILL OWE THE DEBT!! Our office <u>cannot</u> look up these addresses for you.	
5	You <u>cannot</u> continue to use your credit cards. They will be canceled.	
6	While your Chapter 7 case is pending, you must notify my office if you plan to buy or sell a house, car or any other property. Also, you should notify us if you need to borrow money from your retirement account.	
7	If you receive any money or property from an inheritance within six (6) months of filing for Chapter 7 Bankruptcy, it may have to be paid to your creditors. Please call our office immediately if this happens.	
8	Once your case is filed you can discontinue paying any debts which you have listed in your bankruptcy (credit cards, loans, etc.). This <u>does not</u> apply to auto / home loans in which you want to retain the property.	
9	You must have proof of full coverage auto insurance. The creditor may ask to see it and the creditor must be listed as the "Loss Payee" or "Lien Holder" on the policy.	
10	If you forget (or can't find) any information while you are completing your handout, let me know as soon as you realize it. Your schedules can be amended to include the missing information. There is a fee for adding creditors, but it's better to pay the fee and make sure your case is completely accurate!	