

from that point on, must be paid back as usual. At this point the debtor is entitled to keep the money they earn and most property obtained after filing.

This is just an overview of the relief a chapter 7 can bring a debtor. It is important that you have your case reviewed by an attorney so that you may receive every protection afforded to you under the Bankruptcy Code.

What Is A Discharge?

If a debt is discharged it is no longer collectible and the obligation to pay is extinguished.

However, if there is a co-signer (someone has promised to be responsible for the debt) the co-signer is not relieved of his/her duty to pay.

Additionally, if the debt is secured by collateral, the creditor may still be able to repossess the collateral.

Chapter 13: Overview

Chapter 13 differs from chapter 7 in that debtors payback some of their debt over time, pursuant to a court-approved plan. The amount paid into the plan usually depends on the amount of disposable income the debtor has after paying his living expenses.

Chapter 13 debtors usually keep all of their property, regardless of whether or not it is exempt, but they continue to make regular payments on their debts. Plan payments must total, at minimum, what the creditors would have received if the debtor filed a chapter 7. Plan payments are paid to a trustee, who then distributes the payments to the creditors.

Payments are made in regular installments, according to a payment plan or a chapter 13 plan proposed by the debtor and approved by the court.

The plan lasts generally until the debts are paid in full or until the end of a three to five year period. At the end of the plan the debtor receives a discharge of the remaining debt.

This is just an overview of the relief a chapter 13 can bring a debtor. It is important that you have your case reviewed by an attorney so that you may receive every protection afforded to you under the Bankruptcy Code.

Appointments

Monday-Friday 9am-6pm & Saturday 9am-2pm
Late Night & Weekend Appointments Available Upon Request. Call us at **718-533-8090**.

Directions

We are conveniently located 1 block from the No. 7 Train at 82nd Street & Roosevelt Avenue. Other available trains are E, F, V, R to Roosevelt Ave./Jackson Heights transfer upstairs to the Flushing/Main Street bound No.7, take one stop to 82nd Street and Roosevelt Avenue. Walk 1 block.

Disclaimer

This pamphlet, which is based on New York law, is intended to inform, not to advise. No one should attempt to interpret apply any law without the aid of an attorney.

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BANKRUPTCY



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The Goal of Bankruptcy

The bankruptcy law was enacted to serve two main goals. First, to give debtors a fresh start, by canceling out many of their debts, by court order often referred to as a discharge or discharge of debt. Second, it gives creditors the ability to get some type of payment from a debtor if they can afford to pay something.

Should I File For Bankruptcy?

Whether or not to file for bankruptcy is a very personal decision. If you are a person with no significant assets above what New York State law would all you to keep, then you don't need bankruptcy to protect your assets.

However, debtors find it helpful to file a bankruptcy, because they feel emotionally overwhelmed, depressed, or overly stressed by their financial debts and attempts by creditors or collection agencies attempting to collect outstanding debts. Most debtors would like to take care of their past due financial obligations once and for all, so that they may start fresh and protect and accumulate future assets.

Reasons to Consider Bankruptcy

If one or more of the following apply to you, you might want to consider bankruptcy:

- Your minimum monthly payments to creditors are more than you can afford or you seem to be paying more over the limit fees and late fees than you do towards the outstanding balance
- A creditor has filed a lawsuit against you or already has a judgment against you

- Your bank account has been frozen

- Your wages have been garnished
People who have had their wages garnished can benefit greatly from the protections a bankruptcy affords them. They can essentially freeze the garnishment and possibly get back some of the garnished money.

- Collection agencies are calling you at home or at work

- You have had property repossessed (such as a car or boat)

- Your payments are more than 30 days past due on more than one bill

- You have medical bills that aren't covered by insurance

- You have income taxes that at this moment you are unable to pay

- You have few assets and little or no savings

Types of Bankruptcy

There are 4 types of bankruptcy that an individual may consider:

- Chapter 7 (consists of a liquidation of assets for individuals or businesses)

- Chapter 13 (a payment plan for individuals with disposable income and a regular source of income)

- Chapter 12 (usually reserved for family farmers and fishermen)

- Chapter 11 (usually used by businesses to reorganize or used by individuals with substantial assets)

The two most frequently used by individual consumers are chapter 7 and chapter 13. In both types, any attempts to collect any debt must stop immediately. This relief is temporary and usually lasts until the court determines whether or not to grant relief, also know as the "Automatic Stay". This protection is considered to be very powerful.

Chapter 7: Overview

Chapter 7 is the liquidation chapter of bankruptcy. Under this chapter debtors surrender certain property that **exceeds** amounts or types of property protected or considered exempt under state law. The trustee in the bankruptcy matter takes the excess property and conducts a sale in order to raise money for the benefit of your creditors. **Most personal property and household goods are exempt under law**. In most chapter 7 cases a debtor does not give up any property.

In approximately 90 days after filing a chapter 7, most debts are discharged by court order. When a debt is discharged by order of the court the creditor can no longer attempt to collect this debt. Some debts, however, cannot be discharged in bankruptcy.

Some examples of non-dischargeable debts are student loans, some taxes, and past-due child support. Debts where the creditor has a security interest, such as cars and homes, are not discharged.

After the case has been finished and a discharge order is issued the debtor has become entitled to his/her fresh start and the protection of the bankruptcy court is over. Future debts incurred,