

Bankruptcy: Chapter 7 Versus Chapter 13

The primary purposes of bankruptcy is to discharge certain debts and to give you a “fresh start”.

A husband and wife may file a joint petition or individual petitions. Even if only one spouse files, the income and expenses of the non-filing spouse are required so the court, the trustee and all creditors can evaluate the household's financial condition. Although an individual chapter 7 case usually results in a discharge of debts, the right to a discharge is not absolute, and some types of debts, such as most taxes and most student loans, are not discharged.

Both Chapter 7 and Chapter 13 bankruptcies begins with the filing of a petition with the bankruptcy court in the area where you live. In addition to the petition, you must file: (1) schedules of assets and liabilities; (2) a schedule of current income and expenditures; (3) a statement of financial affairs; (4) a schedule of executory contracts and unexpired leases; and (5) your means test. The bankruptcy clerk gives notice of the bankruptcy case to all your creditors whose names and addresses are provided.

Approximately 30 days after filing your petition and schedules, you will attend the first meeting of creditors or 341(a) hearing. We will attend with and explain the procedure to you beforehand.

In most Chapter 7 bankruptcies, about 60 days after the 341(a) hearing, you will receive your order of discharge and congratulations from us for getting your “fresh start”.

In a Chapter 13 bankruptcy, you will pay your disposable income to the Chapter 13 Trustee on a monthly basis to be distributed pro rata to your creditors. Your disposable income is determined by subtracting your usual monthly expenses from your usual monthly income. The remainder is considered your disposable income. Typically, a Chapter 13 bankruptcy will last from 36 to 60 months. In most Chapter 13 bankruptcies after 36 to 60 months you will receive your order of discharge and congratulations from us for getting your “fresh start”.

We serve the entire State of Oregon.