

Bankruptcy

What is bankruptcy?

A bankruptcy is a legal petition filed in federal court, which you may use to seek “discharge” of debt when you cannot pay your bills. There are two main types of bankruptcy for individuals: Chapter 7 and Chapter 13.

Where are the bankruptcy laws found?

They are contained in federal law, specifically Title 11 of the United States Code. There are also Federal Rules of Bankruptcy Procedure and local rules adopted by the Federal Bankruptcy Court in the District of Nevada.

When should I consider filing a bankruptcy?

You should consider filing bankruptcy when you cannot pay off all of your debts in a reasonable amount of time, or at all. This often happens when a particular crisis, such as an illness, accident or loss of employment makes the future payment of your bills very unlikely. Also, if a judgment is handed down against you, a bankruptcy may be used to stop the creditor from attaching your assets or wages.

Can bankruptcy stop collection of taxes?

It depends. Taxes are normally given priority and are difficult to erase. Bankruptcy will initially stop the collection process, but may not eliminate the obligation to pay the taxes.

Does a bankruptcy affect my credit?

Yes. Future lenders may consider your bankruptcy when they are deciding whether to loan you money or credit. However, certain laws exist to prevent unlawful discrimination against you just because you filed for bankruptcy. The fact that you have filed for bankruptcy may be carried on your credit records for 10 years or longer.

Are there different types of bankruptcies?

Yes. Bankruptcies are divided into types, also called Chapters. The four most common bankruptcy Chapters are 7, 11, 12 and 13. Chapter 7 Liquidation



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bankruptcies are used most often when you have more bills than you can pay, and there is little hope of being able to pay them. Certain of your assets may be sold by a bankruptcy trustee, and the proceeds are used to pay your creditors. Chapters 11, 12 and 13 all allow the debtors to reorganize their financial affairs and repay their debts under a bankruptcy court-approved plan. Chapter 13 is generally utilized by debtors who exceed a certain income and therefore are not eligible to file a Chapter 7, who want to re-pay arrears on a house or car, or who need time to pay off debt to the IRS. Chapter 13 is a process used to repay an individual's debts over 36 to 60 months. Chapter 11 is a bankruptcy that is used mostly by businesses and companies with large and complex debts. Chapter 12 provides relief for farmers.

If I file bankruptcy, do I lose all my assets?

No. Bankruptcy law lets individual debtors keep certain property that is not subject to attachment and execution under state law. When you file bankruptcy, you must properly disclose all of your assets and then identify which you wish to keep through bankruptcy. These are called "exempt assets." What property is considered exempt varies from state to state but generally include some or all of the debtor's equity in his or her homestead, household goods, a car, certain retirement plans and numerous other assets. In a Chapter 7, your bankruptcy trustee may sell other assets and distribute the proceeds to your creditors. In a Chapter 13, you must pay the value of the assets to your creditors through a Chapter 13 Plan.

Should I file my own bankruptcy or should I use an attorney?

Bankruptcies can range from the very simple to the very complex. What assets you keep or how long you can pay for the assets you wish to keep may vary based upon your personal situation. There are also a variety of ways that debt can be managed in a bankruptcy that requires a more in-depth knowledge of the bankruptcy laws. We suggest that you consult a lawyer knowledgeable in bankruptcy practice for initial advice, even if you plan to complete the forms yourself. The Bankruptcy Court cannot give you legal advice.

Do I need to do anything to prepare for filing a bankruptcy?

Yes. Create a list of all of the property that you own. Create another list of all of the debts that you owe or that other people think you owe to them and include names, addresses, and account numbers. These lists will help you when you fill out the bankruptcy forms. Take a credit counseling class within 180 days prior to the filing and get a certificate showing you completed the class. This certificate will be filed with the bankruptcy petition. Gather six months of bank statements and pay stubs, and four years of tax returns; they will need to be sent to the Trustee assigned to your case.

How do I file bankruptcy and what happens to me after I do it?

The filing of any type of bankruptcy petition requires that you prepare schedules that list all of your property and debts that you owe. You are also required to disclose your current income and monthly expenses. You must also answer numerous questions regarding your financial affairs — such as recent payments you made to creditors and transfers of property that you have made within the year before filing of your bankruptcy. The completed forms are filed with the Bankruptcy Court. After the forms

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are filed, a bankruptcy trustee is appointed to administer your case. You are required to provide all of your creditors with notice that you have filed bankruptcy using a standard form. This form advises your creditors of certain things that they may and may not do during your bankruptcy case.

What is the cost of bankruptcy?

The filing cost differs based upon the Chapter of bankruptcy you file. Currently, fees are \$338 for a Chapter 7, \$1,738 for a Chapter 11, and \$313 for Chapter 13.

How long does a bankruptcy take? Do I have to attend a hearing?

After you file the bankruptcy petition you are required to attend a meeting of creditors. In a Chapter 7, if no objections are filed after the meeting of creditors, the discharge can be entered in approximately 90 days. Chapter 13 bankruptcies require a minimum of 36 or maximum of 60 months, depending on your income. They may involve a number of hearings over an extended period with both the trustee and the court.

How do I find an attorney with experience in bankruptcy matters?

You can contact the State Bar of Nevada's Lawyer Referral Service at (702) 382-0504 (toll-free in Nevada at 1-800-789-5747). You can also ask friends and/or relatives if they can recommend a good lawyer. The state bar's main office (see numbers listed on first page) can tell you whether or not an attorney is licensed in Nevada and in good standing. In some areas, volunteer lawyer organizations are available to help persons with little income file for bankruptcy protection.