



# November

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## Contemplating Bankruptcy

Filing bankruptcy can be complex and difficult, and it can have lasting effects. You should consider what's involved carefully before deciding if it's the right answer for you. Don't expect bankruptcy to offer you an easy solution to your overspending habits or financial mismanagement. It's intended to relieve you of burdensome debts incurred due to unfortunate circumstances such as medical problems or unemployment.

### To file or not to file

How do you know if you should go bankrupt? If your situation is temporary and will change for the better in the near future, you may just need some breathing room. Contact your creditors; they may offer to lower your payments or interest rate under a hardship program. Or perhaps a credit counseling service can help you restructure your debt and get on your feet again. In fact, for bankruptcy filings, credit counseling is a prerequisite.

Then again, you may not see your income going up in the foreseeable future, or maybe you can't cut your living expenses any further. Perhaps your pleas to restructure your debt have fallen on deaf ears or the relief you've been offered isn't enough to help. Maybe now it's time to consider bankruptcy.

### Personal bankruptcy in general

There are two types of personal bankruptcy, Chapter 7 and Chapter 13. Under Chapter 7, assets are sold to pay creditors and the debt that's left is discharged. If you file under Chapter 13, on the other hand, you probably won't have to sell assets, but all of your disposable income will go to pay creditors for a specified period of time, most likely five years.

Each chapter has its own rules regarding what assets you can keep (so-called exempt property) and what debts you can be discharge (some debts, such as student loans, are nondischargeable), among other things.

### How Chapter 7 works

Generally, Chapter 7 is a liquidation proceeding with the court determining what property, if any, you have to sell to pay your debts.

By law, you get to keep certain exempt property. There are federal bankruptcy exemptions and each state has its own exemptions. Depending on the state in which you live, you may be able to choose between the federal or state exemptions, or you may have to use your state's exemptions. Exemptions generally include specific amounts for your home, car, jewelry, tools of trade, household goods and furnishings, and retirement savings.

Property that is not exempt may be sold to repay your creditors (at least in part). Unsecured debts that remain unpaid are then discharged, with certain exceptions such as tax debts, student loans, domestic support payments, and debts resulting from fraud or driving while intoxicated.

If you go bankrupt against a secured debt, such as a mortgage or a car loan, the collateral securing the debt--the house or the car--will either revert to the lender or be sold with the proceeds going to the lender as at least a partial satisfaction of that secured debt.

### How Chapter 13 works

Under Chapter 13, often referred to as wage earner's bankruptcy, you aren't required to sell assets to satisfy creditors. Instead, your debts are reorganized under a plan and you repay them, fully or partially, over a three-year or five-year period with your disposable income (money you have left over after meeting your normal monthly living expenses). If you complete the plan successfully, unsecured debts that remain unpaid are then discharged, with certain exceptions.



Chapter 13 is often used to forestall and ultimately prevent foreclosure on real property, such as your home. To accomplish this, you would have to continue to make your regular monthly payments directly to the mortgage lender, plus you make separate catch up payments on overdue amounts according to a schedule spelled out in the Chapter 13 plan. If you complete the repayment schedule successfully, your mortgage would again be considered up to date.

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### Determining whether to file under Chapter 7 or Chapter 13

An income eligibility test will be applied to all Chapter 7 petitions; if your income is above the median income level in your state, and you're capable of repaying a specified portion of your unsecured debt, you'll be required to file under Chapter 13.

### Life after bankruptcy

A bankruptcy notation will appear on your credit report for 10 years. It's a serious blemish that can affect you in many ways. Aside from the difficulty it will cause when you try to get new credit, insurance companies may correlate your ability to pay your debts with your ability to make premium payments. As a result, a bankruptcy notation on your credit report may make it difficult (and more expensive) to get certain types of insurance. What's more, an employer may take your credit history into account when deciding to hire or promote you.

Of course, you'll be able to get credit again, but you may have to pay higher interest rates or provide a cosigner or collateral to get started. Getting new credit will help you establish a new track record. But be careful; you won't be able to declare bankruptcy again for several years.

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