Title:
Is Bankruptcy The Answer To Your Woes?

Word Count:
510

Summary:
Bankruptcy is usually the last resort choice when you get into debt.

Keywords:
bankruptcy, chapter, property, chapter 13, chapter 7, discharge, credit, plan, receive discharge, bankruptcy laws, debts,

Article Body:
Personal bankruptcy generally is considered the debt management option of last resort because the results are long-lasting and far-reaching. A bankruptcy stays on your credit report for 10 years, and can make it difficult to obtain credit, buy a home, get life insurance, or sometimes get a job. Still, it is a legal procedure that offers a fresh start for people who can't satisfy their debts. People who follow the bankruptcy rules receive a discharge — a court order that says they don't have to repay certain debts.

The consequences of bankruptcy are significant and require careful consideration. Other factors to think about: Effective October 2005, Congress made sweeping changes to the bankruptcy laws. The net effect of these changes is to give consumers more incentive to seek bankruptcy relief under Chapter 13 rather than Chapter 7. Chapter 13 allows you, if you have a steady income, to keep property, such as a mortgaged house or car, that you might otherwise lose. In Chapter 13, the court approves a repayment plan that allows you to use your future income to pay off your debts during a three-to-five-year period, rather than surrender any property. After you have made all the payments under the plan, you receive a discharge of your debts.

Chapter 7, known as straight bankruptcy, involves the sale of all assets that are not exempt. Exempt property may include cars, work-related tools, and basic household furnishings. Some of your property may be sold by a court-appointed official — a trustee — or turned over to your creditors. The new bankruptcy laws have changed the time period during which you can receive a discharge through Chapter 7. You now must wait eight years after receiving a discharge in Chapter 7 before you can file again under that chapter. The Chapter 13 waiting period is much shorter and can be as little as two years between filings.

Both types of bankruptcy may get rid of unsecured debts and stop foreclosures, repossessions, garnishments and utility shut-offs, and debt collection activities. Both also provide exemptions that allow you to keep certain assets, although exemption amounts vary by state. Personal bankruptcy usually does not erase child support, alimony, fines, taxes, and some student loan obligations. Also, unless you have an acceptable plan to catch up on your debt under Chapter 13, bankruptcy usually does not allow you to keep property when your creditor has an unpaid mortgage or security lien on it.

Another major change to the bankruptcy laws involves certain hurdles that you must clear before even filing for bankruptcy, no matter what the chapter. You must get credit counseling from a government-approved organization within six months before you file for any bankruptcy relief. You can find a state-by-state list of government-approved organizations at the U.S. Trustee Program, the organization within the U.S. Department of Justice that supervises bankruptcy cases and trustees. Also, before you file a Chapter 7 bankruptcy case, you must satisfy a “means test.” This test requires you to confirm that your income does not exceed a certain amount. The amount varies by state and is publicized by the U.S. Trustee Program.