Frequently Asked Questions: Bankruptcy

Chapter 7 Bankruptcy
Chapter 7 bankruptcy is a liquidation proceeding. The Debtor turns over all non-exempt property to the bankruptcy trustee, who then converts it to cash for distribution to the creditors. In most cases the Debtor may keep all of their personal property either under their allowable exemptions, or by buying them back from the trustee.

How Chapter 7 Bankruptcy Works
In Chapter 7 bankruptcy, you provide the court a list of all of your debts and a list of everything you own. You also answer questions about your past financial dealings. You can claim as exempt the property you are allowed by law. This property you may keep. The trustee has the right to liquidate any property that cannot be claimed as exempt and then apply the cash to your debts. If you own a home your are allowed an exemption for your equity which is determined on several factors and a personal property exemption of $1,000.00 along with a vehicle exemption of $1,000 per debtor. IF you do not own a home you have a combined vehicle and personal property exemption of $5,000.

The only restriction on keeping exempt property is that you still must pay purchase-money liens, the liens placed on property you buy. For example, if you plan to keep your car or house, you are still required to make the regular contractual payments to the creditor and to make them on time.

The Most Common Reasons for Consumer Bankruptcy

- Unemployment
- Large medical expenses
- Seriously over extended credit
- Marital problems
- Large unexpected expenses

Chapter 13 Bankruptcy
A chapter 13 bankruptcy gives you the chance to reduce the amount you pay on debts, allowing you to keep your property you otherwise might not be able to afford to keep, and it protects you from your creditors. Debtors facing home foreclosure or interest accruing on back tax debt would benefit from filing a Chapter 13 bankruptcy. Also if your personal assets are to far over the exemption limits or your income is to high to meet the presumption requirements for a Ch 7 you would need to file Chapter 13.

A Debtor must meet certain qualifications in order to file a Chapter 13 bankruptcy. You must have stable and regular income, this is why it is often referred to as a wage earns plan. Your income must be high enough so that after you pay for your basic human needs, you are likely to have money left over to make periodic (usually monthly) payments to the bankruptcy court for three to five years. In addition, your debts must not be too high. There are limitations on how much secured as well as unsecured debt you are allowed to claim on a Chapter 13 bankruptcy. If your income or debts are to high you might have to file a personal Ch. 11.

What is a Bankruptcy Discharge and How Does It Work?
One of the reasons people file bankruptcy is to get a “discharge” of their debt. A discharge is a Court order, which states you are no longer obligated to pay the discharged debt back. Some debts cannot be discharged. For example, you cannot discharge debts for:

- Most taxes
- Child support
- Alimony
- Student loans
- Court fines and criminal restitutions; and
- Personal injury caused by driving drunk or under the influence of drugs.

The discharge only applies to debts that arose before the date you filed. If the Judge finds that you received money or property by fraud, that debt may not be discharged. You must list all of your creditors and you must have a good valued address for the creditor in order for the debt to be discharged.

The Judge can also deny your discharge if something dishonest has been done in connection with your bankruptcy case, such as destroying or hiding property, falsifying records, lying or ignoring a Court Order.

If you're looking for a Tampa Bay bankruptcy lawyer to help you, contact us today.

NOTE: The information you obtain at this site is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your own situation.

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