

CHAPTER 13

Frequently Asked Questions

These frequently asked questions may be inapplicable to cases filed before October 17, 2005.

Table of Contents

1. What is Chapter 13 bankruptcy?
2. Do I have to hire an attorney?
3. What are the most common causes of Chapter 13 bankruptcy?
4. Who can file a Chapter 13 bankruptcy?
5. I have filed for bankruptcy relief before. Am I still eligible to file a new Chapter 13 bankruptcy case?
6. Is there anything I need to do before filing for bankruptcy?
7. Is there anything I should not do if I am contemplating bankruptcy?
8. Can I stop the bill collectors from calling?
9. Who notifies the creditors and bill collectors about the bankruptcy filing?
10. How long after I file will the creditors stop calling?
11. What information do I need to provide?
12. Do I have to fill out forms?
13. What if I forget to list a creditor on my bankruptcy papers?
14. Do I have to go to court or to a hearing?
15. What happens after I file?
16. I am married. Does my spouse also have to file bankruptcy?
17. If I am self-employed or own a business, are there any additional requirements?
18. Will I lose my job?
19. Can I go to jail if I file bankruptcy?
20. Will my employer find out about my bankruptcy?
21. Can I keep my home?
22. Will I be able to keep all of my personal property?
23. Can I keep my car after bankruptcy?
24. What is adequate protection and how and when is it paid?
25. What happens to my real property and other assets after I file for bankruptcy protection?
26. Can I keep my credit cards after bankruptcy?
27. Can I obtain credit while I am in bankruptcy?
28. Will bankruptcy stop a wage garnishment?
29. Will bankruptcy stop a foreclosure?

30. Will bankruptcy stop an eviction action?
31. Will bankruptcy stop collection on a judgment?
32. Will bankruptcy remove a lien?
33. I am divorced. Will bankruptcy wipe out my obligation to pay joint debts?
34. Does a Chapter 13 bankruptcy relieve me from having to pay domestic support obligations (including child support)?
35. I am a co-signer for a debt. How does bankruptcy affect my obligation?
36. How long will a Chapter 13 plan last?
37. Who determines how much my Chapter 13 payments will be?
38. Who deals with the creditors and bill collectors during the bankruptcy?
39. What is a discharge?
40. Are all of my debts discharged after I complete all of my plan payments or just some of them?
41. What kinds of debts may not be discharged?
42. After bankruptcy, can I get credit?
43. What happens to my credit rating after bankruptcy?
44. How do I re-establish my credit after bankruptcy?
45. If I need to file bankruptcy again, how long do I have to wait?

1. What is Chapter 13 bankruptcy?

Chapter 13 bankruptcy is a debt repayment proceeding. The debtor turns over a specified portion of future earnings to a Chapter 13 trustee (hereinafter “the trustee”), who then distributes the money according to a confirmed plan to creditors who have filed bona fide claims. The method of determining the dividend distribution is determined by the Chapter 13 plan, which is filed with and confirmed or not confirmed, by the Bankruptcy Court (hereinafter “the Court”). If the debtor completes the plan, the debtor receives a discharge of all dischargeable debts.

2. Do I have to hire an attorney?

No, but it is strongly recommended. Most cases without representation by an attorney fail. Neither the bankruptcy trustee nor the Court represents you and neither can give you legal advice.

3. What are the most common causes of Chapter 13 bankruptcy?

The most common reasons for consumer bankruptcy are (a) loss of a job or long-term layoffs; (b) loss of overtime hours; (c) lengthy illnesses and large medical expenses; (d) death or disability of a spouse; (e) separation, divorce and marital problems; (f) seriously over-extended credit; and (g) large unexpected expenses.

4. Who can file a Chapter 13 bankruptcy?

Only individuals may file under Chapter 13. You must reside or have a domicile, a place of business, or property in the United States or a municipality. You must not have had a bankruptcy filing dismissed for cause within the last 180 days. You must have a regular income. For cases filed between April 1, 2007 and March 31, 2010, your debts cannot exceed \$1,010,650 in secured debt or \$336,900 in unsecured debt. If your case was not filed during this period, you should consult with your attorney to determine what the applicable dollar amounts are. You must have completed an approved credit counseling briefing course within the 180 days prior to filing the petition. See Question 6 for more information regarding credit counseling.

5. I have filed for bankruptcy relief before. Am I still eligible to file a new Chapter 13 bankruptcy case?

Generally, you may file a new Chapter 13 bankruptcy case even if you have filed prior bankruptcy cases. However, you may not be eligible to file a new case if your previous case was dismissed in the last 180 days for willful disobedience of a court order, or you voluntarily dismissed your case following a creditor's request for relief from the automatic stay. Pursuant to the amendments to the Bankruptcy Code that took effect on October 17, 2005 (hereinafter "BAPCPA"), there are additional restrictions on whether you are entitled to a discharge in the new case. See Question 39 for more information regarding eligibility for discharge.

6. Is there anything I need to do before filing for bankruptcy?

Yes. Within 180 days before actually filing the case, you will have to attend an individual or group briefing provided by an approved nonprofit budget and credit counseling agency. Upon completion, provide the credit counseling certificate to your attorney for filing with the Court with your case. You must also be able to show that you have filed all tax returns for the four (4) years prior to the filing of the current case.

7. Is there anything I should not do if I am contemplating bankruptcy?

There are several areas related to this question. First and foremost, you should consult your attorney. Under bankruptcy law, certain luxury purchases made within 90 days of the bankruptcy filing and certain cash advances taken within 70 days of the bankruptcy filing are presumed nondischargeable. In some instances, these purchases and advances are made for good reasons and are exempted. However, your attorney will advise you on these matters, depending on the type of bankruptcy you file.

8. Can I stop the bill collectors from calling?

One of the major benefits of filing for protection under bankruptcy is that creditor actions are stayed (stopped). This means that debt collection efforts and foreclosure are halted immediately. However, if you have filed a previous bankruptcy case in the year prior to filing your current case, the automatic stay may only be in effect for 30 days. If you have filed two (2) or more previous bankruptcy cases in the year prior to filing your current case, the automatic stay may not be in effect at all. It is very important to inform your attorney about any prior bankruptcy cases that you have filed so that the attorney can properly advise you as to your options. Chapter 13 also protects co-debtors or co-signers from collection activity while you are making your Chapter 13 payments. See Question 10 and Question 38 for more information regarding creditor contacts with debtors.

See Question 35 for more information regarding co-signed debts.

9. Who notifies the creditors and bill collectors about the bankruptcy filing?

After your bankruptcy is filed, the Court mails a notice to all the creditors listed in your schedules. This usually takes a week to ten days. If this is not soon enough, you should have your attorney inform the creditors immediately. However, you must list all your creditors and correct addresses in order for the court to give the proper notice.

If you have received any communication from the creditors in the 90 days prior to filing the bankruptcy, the creditor must be provided notice of the filing at the address on the communication. This is very important information, and should be provided to your attorney prior to the bankruptcy filing so the attorney can correctly list all the appropriate addresses.

10. How long after I file will the creditors stop calling?

Once a creditor becomes aware that you have filed for bankruptcy protection, the creditor must stop all efforts to collect the debt. There are exceptions to the automatic stay for certain types of debts and proceedings under §362. After you file bankruptcy, the court will mail a notice to all of the creditors listed in your schedules. This usually takes a week to ten (10) days. You will receive a copy of the same notice that goes out to creditors. If this is not soon enough to stop a garnishment or repossession, then you should have your attorney inform the creditor immediately.

If a creditor continues to use collection tactics once informed of the bankruptcy, the creditor may be liable for court sanctions and attorney fees for this conduct.

11. What information do I need to provide?

Most attorneys have initial questionnaires that they use to collect

information, and may request additional items of information particular to your circumstances. At a minimum, you must provide your attorney with a list of all of your property and all of your debts. You must have all of your pay advices for the six (6) months prior to filing the bankruptcy, and copies of your tax returns (federal, state, and county, if applicable) for the four (4) years prior to filing the case. These are required not only to verify your financial information, but are also documents that the trustee will review. If you have not filed all four (4) years of returns with the taxing authorities, tell your attorney, and make arrangements to get the returns filed.

If you are divorced and are required to pay domestic support obligation, most usually child support, you must provide your attorney and the trustee with the name and address of the person entitled to receive the domestic support payments. Under BAPCPA, the trustee must provide a notice to the recipient that you have filed for bankruptcy protection.

12. Do I have to fill out forms?

YES. You will be required to list ALL of your property and ALL of your debts on official forms to be filed with the Court. At the initial meeting of creditors, you will be asked under oath whether you have listed all of your property and all of your debts on the forms filed with the Court, and you must be able to truthfully answer that you have.

There could be between 30 and 60 pages in your petition, schedules, and other papers filed at the time of your bankruptcy. You must follow the local and federal bankruptcy court rules in completing the forms. Preparing these forms requires an understanding of both bankruptcy law and local state law in order to enter the information correctly and accurately. These forms have to be typed and filed with the court electronically in most jurisdictions.

After your attorney has prepared the bankruptcy petition, you or you and your spouse (if filing jointly) will review them and, if they are correct, sign them. Your attorney will forward them to the Court along with the necessary filing fees.

You may have to complete a detailed questionnaire from the trustee's office. It is important that you complete all of the questions, even though many of them may not apply to you or to your situation.

13. What if I forget to list a creditor on my bankruptcy papers?

You can file an amendment to your schedules up to a certain time before discharge. If the amendment is timely filed, then the omitted creditor is added to the bankruptcy. It is perjury to intentionally omit a creditor. Your attorney may charge an extra fee for adding creditors after the petition and schedules have been filed.

14. Do I have to go to court or to a hearing?

Yes. Within about 30 to 45 days after you file the bankruptcy, you will have to attend a meeting over which the trustee or the bankruptcy administrator presides. This meeting is called the First Meeting of Creditors or Section 341 Meeting. At this meeting, the trustee or the bankruptcy administrator will ask questions of you under oath regarding the content of your bankruptcy papers, assets, debts and other matters. After the trustee or bankruptcy administrator is done, your creditors will have an opportunity to ask you questions regarding the location and condition of your property, hazard insurance coverage and matters related to your financial affairs.

Don't worry. Your attorney will be there to represent you and your attorney will help you prepare for the meeting. Sometimes, after your meeting is over, your creditors will approach you through your attorney to discuss the status of secured property. Your attorney will negotiate with them, with your knowledge and approval. In some jurisdictions, you will have to attend another meeting, but this is dependent upon the local court rules. Within 20 and 45 days of the First Meeting of Creditors, you may have to attend a confirmation hearing in order to finalize the plan you are proposing. Also, if you have filed bankruptcy previously, you may have to attend a hearing that determines whether you and/or your estate is able to obtain a stay of action by filing the bankruptcy. Whether you have to attend

any further hearings is something you need to discuss with your attorney, as the attorney will be the best one to advise you based upon your jurisdiction and case.

15. What happens after I file?

After you file for Chapter 13 protection, the Court will set a date for your Section 341 meeting of creditors and for hearing on confirmation of your Plan. Sometimes the 341 meeting and confirmation hearing are combined into one hearing. As part of confirmation, the Court will issue an order requiring that you make the payments to the trustee that you proposed in your Plan. Over the course of your bankruptcy, you will be required to make the payments that you proposed to the trustee and, if appropriate, keep your home mortgage or your rent from getting further behind.

16. I am married. Does my spouse also have to file bankruptcy?

No. In some cases where only one spouse has debts, or one spouse has debts that are not dischargeable, then it might be advisable to have only one spouse file. You should consult with your attorney regarding your state's community property laws and whether you are better off filing individually or jointly.

17. If I am self-employed or own a business, are there any additional requirements?

Part of your trustee's responsibilities includes verifying your income. For most debtors, this is easily accomplished by providing the trustee with copies of paycheck stubs from their employer. However, debtors that are self-employed or own a business generally do not have paycheck stubs to provide to the trustee. In these situations, the trustee may require additional documentation, such as profit/loss statements, monthly business operating statements, and/or tax returns to verify the income.

As a self-employed debtor or business owner, you are generally permitted to continue the regular operation of your business. If your

business enterprise incurs trade credit in the production of income or otherwise meets the threshold, your trustee may determine that you are “engaged in business.” If the trustee determines that you are “engaged in business,” you will likely need to provide additional documentation such as tax returns, financial records, and other business records to the trustee. These documents enable the trustee to perform an investigation of the business and prepare a Statement of Investigation, as required by BAPCPA. In addition, the business may be subject to periodic monitoring by your trustee.

18. Will I lose my job?

No. Bankruptcy laws prohibit discrimination based upon a debtor filing for protection under the bankruptcy laws.

19. Can I go to jail if I file bankruptcy?

ABSOLUTELY NOT. There are no debtors’ prisons in the United States. As a matter of fact, the right to file for bankruptcy protection is governed by the U.S. Constitution in Article 1, § 8, cl. 4.

20. Will my employer find out about my bankruptcy?

Under normal circumstances, unless your employer is a creditor, your employer will not know that you have filed bankruptcy. However, there is a growing trend in bankruptcy courts to require wage withholding to fund the Chapter 13 plan. This means that your employer may receive an order from the Court to deduct your Chapter 13 payment from your check and send it directly to the trustee. Consult your attorney about local procedure.

21. Can I keep my home?

YES. One of the main reasons people file a Chapter 13 bankruptcy is to keep their home. Usually, if you are behind on your house payments, your Chapter 13 plan will provide that you begin making your current monthly payments and not get any further behind. Any payments you are behind will be included in your plan payment and

paid to the mortgage company through the trustee. In some areas, the trustee will make your current mortgage payments as part of your Chapter 13 plan if you have been delinquent with mortgage payments prior to filing bankruptcy. See Question 29 for more information regarding foreclosure.

22. Will I be able to keep all of my personal property?

YES, generally, if you want to. By filing a Chapter 13 Plan, you arrange for the repayment of your debts and for the repayment of liens on your property. Sometimes, a debtor may want to surrender a particular asset in order to get rid of the debt associated with the asset or to just return the asset itself. Most personal property can be kept after filing, but some items of personal property that are not necessary to allow you to reorganize your debts may have to be surrendered. These items are referred to as luxury items, and if you owe money on them, you may have to give them back or increase the distribution to your unsecured creditors. Some trustees may require you to turn over proceeds from personal injury lawsuits. Certain non-exempt property can be retained as long as you compensate creditors for its value. This is a very complicated area of the law and is something that has to be reviewed given your specific facts and the jurisdiction in which your case is filed. See Question 25 for more information regarding what happens to assets after filing for bankruptcy protection.

23. Can I keep my car after bankruptcy?

Yes. However, there are special requirements for retaining a car that was purchased within 910 days (2.49 years) prior to filing for bankruptcy protection. If your car is secured by a loan to a creditor and purchased within 910 days of filing, your plan must pay the creditor the full amount of the debt against the car, plus interest, in equal monthly payments. In most jurisdictions, if the equal monthly payments do not begin in month one (1) of your plan, you must pay the creditor special payments called “adequate protection” until regular payments begin, so the creditor receives the full amount of its secured claim while you continue to use the car during your bankruptcy. Consult your attorney if the interest rate on your

automobile loan is very high. See Question 24 for more information regarding adequate protection payments.

If the car was purchased more than 910 days prior to filing for bankruptcy protection, you will be expected to pay an amount to the creditor at least equal to the value of the automobile at the time you file your Chapter 13 plan. Any amount due to the creditor over the value of the car will be paid as an unsecured debt. You must maintain property insurance on the vehicle if you own money on it.

24. What is adequate protection and how and when is it paid?

Under BAPCPA, there are several manners in which a creditor may get payment before the plan is confirmed. Typically, these are called “adequate protection” payments because the creditor is receiving money on a monthly basis so their interest in the secured item is not diminished. Typically, the trustee will begin making adequate protection payments when a plan is filed that states payments will be made and after the creditor files a proof of claim. Assuming the plan and the creditor’s claim reflect the same information, the trustee will start disbursing payments. A creditor may also get adequate protection payments by filing a motion with the Court requesting payments. If the Court grants the motion, the trustee will disburse payments as required by the Court’s order. In some jurisdictions, you may be expected to make adequate protection payments directly to your creditors upon filing for bankruptcy protection. Whether the trustee makes adequate protection payments or you make the payments directly is based upon local rules and customs. Your attorney can advise you of the proper procedures for your area.

25. What happens to my real property and other assets after I file for bankruptcy protection?

Once the Chapter 13 bankruptcy is filed, all property of the debtor at the time of filing and certain other property to be received in the future becomes the property of the bankruptcy estate. Depending upon the bankruptcy laws and state laws where you live, some property can be excluded from the bankruptcy estate through

properly claimed exemptions. Other property that does not qualify from exclusion from the estate is considered to be non-exempt, and the trustee takes control of all non-exempt property for purposes of satisfying the creditors. Once the Chapter 13 plan is confirmed (approved by the Bankruptcy Court), control over all your property, except for future wages, may be returned to your control, depending on the local plan form and local court rules. Consult your attorney about exemption issues.

26. Can I keep my credit cards after bankruptcy?

No. Frequently, one of the reasons for filing is overuse of credit cards. Each and every creditor you owe money to when you file should be listed in your bankruptcy to provide the creditor with notice of the bankruptcy filing, and to allow each unsecured creditor to share in plan payments as required by your Chapter 13 plan. If you try to exclude any creditor from your bankruptcy, the creditor will not receive notice and can proceed with collection against you as if the bankruptcy were not filed.

If you have a credit card where a non-filing spouse or other party has co-signed, consult your attorney regarding the availability of protection for the co-signer.

27. Can I obtain credit while I am in bankruptcy?

You can obtain credit while in bankruptcy, but the circumstances in which you may get credit are limited by the local rules of the Court. To properly obtain credit, which includes any purchases in which you would pay over time, including the refinancing of your home mortgage, you must make a request to either your trustee or the Court. The Court in each jurisdiction has established procedures that you must follow in order to have the credit request approved or denied. Consult your attorney as to how your jurisdiction handles such requests.

28. Will bankruptcy stop a wage garnishment?

Yes. Consult your attorney if a creditor continues with garnishment after notice of the filing.

29. Will bankruptcy stop a foreclosure?

Generally, yes. A home is an asset usually secured by a mortgage. New provisions in BAPCPA now govern whether the Chapter 13 bankruptcy will stop a foreclosure if you have filed for bankruptcy before. If you have filed a prior bankruptcy case or cases within certain time limits, the automatic stay may terminate within 30 days of the current filing, or never go into effect at all, unless your attorney files a motion to the Court within the first 30 days after filing asking the Court to reinstate or continue the protection of the automatic stay. This is a very complex area of the law and requires prompt action to allow you to retain protection of the bankruptcy stay.

While a Chapter 13 bankruptcy may stop a foreclosure, unless you begin making current payments after filing, the mortgage creditor will be successful in obtaining permission from the Court to start or continue a foreclosure proceeding. Assuming you can make your monthly payments after you file a Chapter 13 plan, you can catch up your arrearages under Chapter 13 and maintain current monthly payment to avoid a foreclosure sale of your home.

30. Will bankruptcy stop an eviction action?

Yes. However, unless you can begin making your future rent payments on time, Chapter 13 will only stop an eviction for a while. Like a home mortgage payment, unless you can stay current from the date of filing a Chapter 13 case forward, the owner will be entitled to possession of his property and, at best, you will be able to remain in the property until the owner can obtain an order from the Court granting relief from the automatic stay and begin eviction proceedings in state court. If you can stay current, then you can catch up your back rent through the Chapter 13 plan.

31. Will bankruptcy stop collection on a judgment?

Yes. Most judgments are stopped by bankruptcy. There are some exceptions to this, including claims for criminal restitution or a fine based upon the conviction of crime. Also, an exception exists if the judgment is one in which the debtor is found guilty of a willful or malicious injury to another which results in an injury or death. There may be other judgments that are not stopped by the bankruptcy. Your attorney is the best person to advise you concerning any judgments entered against you.

32. Will bankruptcy remove a lien?

Under some circumstances, once the bankruptcy proceedings have started, a special motion can be filed to remove certain liens. It will take an order from the Court to remove them. This is a very complicated area of the law and you should consult with an attorney.

33. I am divorced. Will bankruptcy wipe out my obligation to pay joint debts?

In some cases, yes. Generally, obligations arising out of a divorce or property settlement agreement are nondischargeable. If your Chapter 13 plan provides for payment in full of these obligations, then they will be discharged. However, if your plan does not provide for payments in full, these obligations will not be discharged at the end of your Chapter 13 bankruptcy and you will still have to pay them outside of the bankruptcy. While you are in Chapter 13 bankruptcy, creditors will not be permitted to collect the joint debts either from you or your former spouse without a specific court order allowing them to proceed. Whether or not the bankruptcy discharges the joint debts from a divorce is largely dependent on the state laws that govern the divorce. You will need to provide a copy of the divorce decree to your bankruptcy attorney in order to properly determine if they will be discharged.

34. Does a Chapter 13 bankruptcy relieve me from having to pay domestic support obligations (including child support)?

NO, quite the contrary. In order to have your plan confirmed (approved by the Court), you must be current in child support

payments after you file. You can pay payments that were behind at the time of filing through the trustee as part of your plan.

35. I am a co-signer for a debt. How does bankruptcy affect my obligation?

If the debt is primarily your debt, then you must provide for payment under your Chapter 13 plan. If the debt is primarily the debt of the person with whom you co-signed, then you may provide for payment of the debt under your Chapter 13 plan. If your plan does not provide for full payment of the co-signed debt, the creditor could get permission from the Court to collect the debt from the co-debtor. While you are in Chapter 13, and if your plan provides for full payment of the debt, the co-debtor is protected against collection efforts outside the Court.

36. How long will a Chapter 13 plan last?

Under BAPCPA, Congress has created a mathematical equation, sometimes referred to as a “means test,” that determines a variety of issues in your case. A full review of your finances for the six (6) months prior to filing your bankruptcy determines whether your plan needs to be 36 months or 60 months long. If your income from the preceding six (6) months is more than the average household income for a similar size household in your area, then you are referred to as an “over median” debtor. If your income is over median, then you typically have to file a plan that extends to 60 months. This is not required in all jurisdictions, and you need to consult your attorney as to the case law in your area. If your average income from the preceding six (6) months is less than the average household income for a similar size household in your area, you are referred to as an “under median” debtor. If you are under median, then you do not have to propose a plan any longer than 36 months, but you may propose a longer plan if necessary to resolve your financial issues. This is a decision to be made with your attorney. For information regarding the means test forms, see Official Form 22C. See Question 37 for more information regarding Chapter 13 payments.

37. Who determines how much my Chapter 13 payments will be?

Under BAPCPA, you must complete the Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, the “means test” referred to above. If you are an over median debtor, the information on this form will be used to determine how much you will be required to pay back to your unsecured creditors. If you are an under median debtor, then the Court may look at the various schedules filed in the case and make a determination depending on how much money you make and the monthly expenses you can reasonably deduct from the income to decide what amount should be paid to unsecured creditors. However, the calculation of the amount to be paid to your unsecured creditors is only a portion of the amount you may need to pay into your Chapter 13 Plan. Given the variety of factors and issues to be considered, your attorney needs to assist you with this calculation and the ultimate determination of how much your Chapter 13 plan payments will be. For information regarding bankruptcy schedules, see Official Form Schedule I and Official Form Schedule J. See Question 36 for more information regarding the means test.

38. Who deals with the creditors and bill collectors during the bankruptcy?

Your attorney. With the exception of a few types of debts, once you file your case, an automatic stay protects you. This stay constitutes a temporary statutory injunction prohibiting creditors from taking any action designed to collect a debt, including the filing of a lawsuit. In other words, a creditor or bill collector is prevented from attempting any further collection activity. If a creditor or bill collector attempts collection efforts after you file your case, contact your attorney.

39. What is a discharge?

Unless you do not qualify, once you have finished making all of your plan payments, you will be eligible to receive a discharge. A bankruptcy discharge releases a debtor from personal liability for certain specified types of debts. In other words, when a debt is discharged, it is no longer enforceable against the debtor

personally. This means that a debtor is no longer legally required to pay any debts that are discharged. Your creditors will receive an order from the Court prohibiting them from taking any form of collection action on discharged debts, including legal action and communications with you, such as telephone calls, letters, and personal contacts. It is important to understand that if a creditor has a security interest against your property (personal or real) and you are not current on those payments, they may still proceed against that security interest and try to take back possession. They may not, however, seek to collect any money from you for a debt that has been discharged.

If you have received a discharge in a prior Chapter 7, 11 or 12 case filed in the last four (4) years, you will not be eligible for a discharge in your new Chapter 13 case. If you have received a discharge in a prior Chapter 13 case filed in the last two (2) years, you will not be eligible for a discharge in your new Chapter 13 case. Because of the ambiguity in the language of BAPCPA, it is unclear whether the prohibited period runs from the filing date of your previous case or the discharge date. You should consult with your attorney to determine what interpretation is being applied in your jurisdiction. If you failed to attend a post-filing instructional course concerning personal financial management approved by the U.S. trustee or bankruptcy administrator, you will not be eligible to receive a discharge. Unless you file an affidavit certifying that your child support is current at the time you become eligible for discharge, you will not be eligible to receive a discharge.

40. Are all of my debts discharged after I complete all of my plan payments or just some of them?

The extent of the bankruptcy discharge varies, depending upon the type of case filed. It may be different, depending on whether a debtor files a Chapter 7, 11, 12 or 13 case. In Chapter 13 cases, a debtor is usually entitled to a discharge upon completion of all payments due under the plan. However, not all debts are discharged, and you will be required to repay those that are not discharged.

41. What kinds of debts may not be discharged?

Some debts that are nondischargeable include domestic support obligations (debts for spousal or child support, alimony or maintenance), most government-funded or guaranteed educational loans (student loans) or benefit overpayments, court fines, debts for personal injury caused by a debtor's operation of a motor vehicle while intoxicated, debts for certain condominium or cooperative housing fees, and most taxes, just to name a few. These exceptions to discharge can and will apply automatically. Creditors may also seek to have a debt declared nondischargeable by the Court based upon a statement that credit was obtained through the use of false financial information provided by a debtor. The list of potentially nondischargeable debts is quite comprehensive, and your attorney can help you with this issue.

42. After bankruptcy, can I get credit?

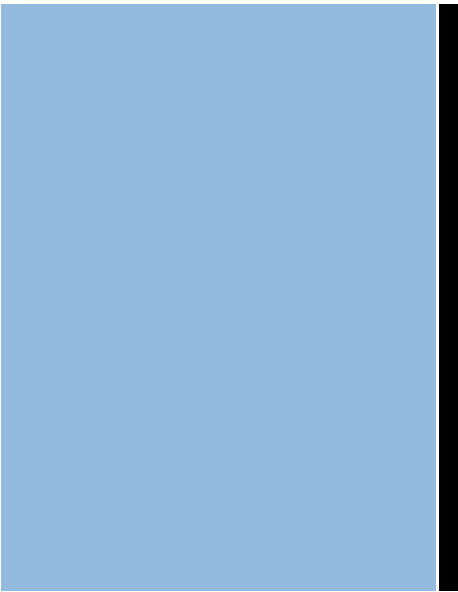
Surprisingly to most folks, YES. This is up to each particular credit grantor. It is possible to get credit if the credit grantor believes and understands your reasons for filing bankruptcy.

43. What happens to my credit rating after bankruptcy?

The bankruptcy may be listed in credit reports for a period of up to ten (10) years. However, by the time most debtors have filed bankruptcy, their credit rating is already damaged by late payments, repossessions, lawsuits, foreclosures and other debt problems, which may be reported for a period of up to seven (7) years.

44. How do I re-establish my credit after bankruptcy?

There are at least two ways to get credit after a bankruptcy. First, one of your existing creditors may continue to grant you credit based upon your past dealings with them. Second, today there are several banks offering secured credit cards. This means that the credit limit is based upon the amount of security (usually cash) given to the card issuer. There are people who "specialize" in the business of credit repair. BEWARE. Some of the schemes they offer to you are not only worthless, they may be illegal. Consult your attorney



first. You will almost certainly receive at least one solicitation from one of these “professionals.”

45. If I need to file bankruptcy again, how long do I have to wait?

You may file a Chapter 7 case every eight (8) years. If you filed a Chapter 13 case and paid at least 70% of your unsecured debts, there is no waiting period to file a Chapter 7 case. There is no restriction on an individual for filing Chapter 13 cases, other than if the Court dismissed a prior case for a willful failure to obey a court order, or you voluntarily dismissed the prior case after a creditor filed a motion for stay relief. However, one must be cautious here: you may only have a limited stay, if any, and you may not be entitled to a discharge. See Question 39 for more information regarding a bankruptcy discharge.