

## **Introduction into Bankruptcy**

*January 19, 2017*

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## Bankruptcy and Members of the Military

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If you are a member of the U.S. armed forces, a reservist, or member of the National Guard, you can file for bankruptcy just like any civilian. However, Congress has provided some special rules for servicemembers filing for bankruptcy. For example, disabled veterans and certain reservists and members of the National Guard are exempt from the bankruptcy means test (that's the test that keeps higher income earners from filing for Chapter 7 bankruptcy). And the Servicemembers Civil Relief Act gives bankruptcy courts the power to stay or postpone bankruptcy proceedings while you are on active duty.

If you are in the military or plan to become a servicemember, however, you should carefully weight the effect bankruptcy will have on your enlistment and security clearance. In many cases, it won't matter – but it could.

Special Rules for Military Members in Bankruptcy

Will Bankruptcy Affect Enlistment or Security Clearance?

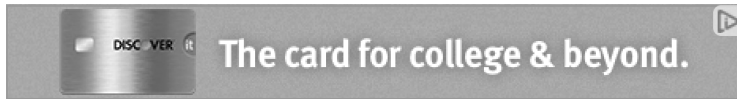
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## Bankruptcy: An Overview

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Most people have heard the term "bankruptcy" and understand that it has something to do with being broke. Below is an overview of bankruptcy, its types, and how can the process actually help you in various situations. See FindLaw's [Bankruptcy Basics](http://bankruptcy.findlaw.com/what-is-bankruptcy/bankruptcy-basics/) (<http://bankruptcy.findlaw.com/what-is-bankruptcy/bankruptcy-basics/>) section for additional articles and resources.



### Bankruptcy: Origins and Background

Several early attempts at creating universal bankruptcy rules, beginning in 1800, were amended and eventually repealed until passage of the so-called "Nelson Act" in 1898. Specifically, the Nelson Act gave companies the option of discharging debts but did extend those same protections to consumers.

In 1978, using the authority granted by [Article I, Section 8 of the U.S. Constitution](http://constitution.findlaw.com/article1/annotation36.html#11) (<http://constitution.findlaw.com/article1/annotation36.html#11>), Congress enacted the much broader "[Bankruptcy Code](http://codes.lp.findlaw.com/uscode/11)" (<http://codes.lp.findlaw.com/uscode/11>). The Code has been amended numerous times since being enacted and governs all U.S. bankruptcy cases.

The Federal Rules of Bankruptcy Procedure (or simply "Bankruptcy Rules"), created by the U.S. Supreme Court, govern the processes of bankruptcy. Each bankruptcy court also has its own local rules.

### How Bankruptcy Courts Work

While most court cases are heard in either civil or criminal court, bankruptcy has a dedicated system of courts throughout the country. Each judicial district in the U.S. has [its own bankruptcy court](http://www.findlaw.com/casecode/bankruptcy-courts.html) (<http://www.findlaw.com/casecode/bankruptcy-courts.html>), while each state has at least one district (90 districts total).

United States bankruptcy judges have the authority to make binding decisions in bankruptcy cases, such as eligibility issues or whether to grant a debt discharge. However, most aspects of the bankruptcy process are done outside of the court. For example, an appointed trustee carries out the administrative duties of Chapter 7, Chapter 13, and other types of bankruptcy cases.

The debtor actually has very little interaction with the bankruptcy judge. Most Chapter 7 applicants don't even set foot in court and only see the judge if there are objections to the bankruptcy plan. Chapter 13 debtors typically appear in

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## What Is Bankruptcy?

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court just once, at the bankruptcy plan confirmation hearing. The informal meeting of the creditors (also called a "341 meeting," based on Section 341 of the Code) is typically held at the trustee's office.

### Bankruptcy's Main Goal

Federal bankruptcy laws are intended to allow debtors a way out of particularly heavy debts, giving consumers and businesses a fresh start where all other options have failed. A 1934 U.S. Supreme Court decision described bankruptcy's role as follows:

[I]t gives to the honest but unfortunate debtor a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt. *Local Loan Co. v. Hunt* (<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=292&page=234>), 292 U.S. 234, 244 (1934).

The bankruptcy discharge (<http://bankruptcy.findlaw.com/chapter-7/the-debt-discharge-in-bankruptcy-faq.html>), a court order releasing the debtor from personal liability for certain debts, is the main way this is accomplished. The discharge also prohibits creditors or collections agencies from communicating with debtors.

### Different Types of Bankruptcy

If you were to ask an attorney, "What is bankruptcy?" you would probably be asked whether you are a business or an individual, the status of your debts, and other questions to help narrow down the definition. Truth is, bankruptcy can mean different things to different debtors. There are several types of bankruptcy provided under the U.S. Bankruptcy Code, each with its own rules and procedures:

#### Chapter 7

Chapter 7 Bankruptcy is titled "Liquidation" in the Code, since most of the debtor's assets are sold for cash (or "liquidated") and used to pay creditors. However, there are certain limits to which assets may be liquidated (see Bankruptcy Exemptions: Chapter 7 (<http://bankruptcy.findlaw.com/chapter-7/bankruptcy-exemptions-chapter-7.html>) for more details). Chapter 7 filings where there is very little nonexempt property, if any, are called "no-asset cases." Creditors holding unsecured claims (such as credit card issuers) typically do not receive proceeds unless it is an asset case and the creditor has filed a proof of claim with the court.

Major changes to the Bankruptcy Code in 2005 included the requirement of a "means test" (<http://bankruptcy.findlaw.com/chapter-7/the-bankruptcy-means-test.html>) to determine eligibility for personal bankruptcy under Chapter 7. The test determines whether or not the debtor has too much income for this type of filing.

See FindLaw's Chapter 7 Bankruptcy (<http://bankruptcy.findlaw.com/chapter-7/>) section for additional articles and resources.

#### Chapter 13

Chapter 13 Bankruptcy is titled "Adjustment of Debts of an Individual with Regular Income." Unlike Chapter 7, Chapter 13 is best suited to debtors with regular income. Those who file under Chapter 13 typically are able to hold onto valuable assets, such as a house and car. Instead of liquidating assets, Chapter 13 debtors work out a plan to repay creditors over a longer period of time, usually three to five years.

The court either approves or rejects the repayment plan at a confirmation hearing, based on whether it meets requirements established by the Code. The main difference, as opposed to Chapter 7, is that the Chapter 13 filer typically remains in possession of property and makes payments to creditors through the



trustee. The plan is based on the debtor's projected income over the life of the bankruptcy plan. The debtor does not receive an immediate debt discharge upon approval, but must complete payments first.

While the plan is in effect, the debtor is shielded from wage garnishments, lawsuits, and other creditor or collections actions. Additionally, debtors may be able to eliminate more debts under the Chapter 13 discharges.

See FindLaw's [Chapter 13 Bankruptcy \(http://bankruptcy.findlaw.com/chapter-13/\)](http://bankruptcy.findlaw.com/chapter-13/) section for additional articles and resources.

**Chapter 11**

Titled "Reorganization," Chapter 11 Bankruptcy is most often used by businesses that would like to continue their operations while they repay creditors. Debtors in Chapter 11 have the right to file a reorganization plan for the first 120 after filing the case, which must include a disclosure statement to creditors with enough information to help them evaluate the plan.

Under Chapter 11, the debtor may trim its debts through a combination of repaying some debts and discharging others entirely. Additionally, the debtor may offload leases and contracts, while recovering certain assets and focusing its efforts on becoming profitable. The process normally involves a period of consolidation, which may include a reduction in work force.

See [Chapter 11 Bankruptcy \(http://bankruptcy.findlaw.com/chapter-13/chapter-11-bankruptcy.html\)](http://bankruptcy.findlaw.com/chapter-13/chapter-11-bankruptcy.html) for more details.

**Chapter 12**

The purpose of Chapter 12, titled "Adjustment of Debts of a Family Farmer or Fisherman with Regular Annual Income," is self-explanatory. The Chapter 12 process is quite similar to that of Chapter 13, in that the debtor devises a plan to repay his or her debts over a period of a few years. The plan may be for as long as three years for Chapter 12 filings, and up to five years with court approval. The trustee in Chapter 12 cases functions similarly to a trustee in Chapter 13.

The goal of this type of bankruptcy is to allow family farmers and fisherman to continue operations throughout the duration of the plan.

See [Chapter 12: Basics and Eligibility \(http://bankruptcy.findlaw.com/chapter-13/chapter-12-basics-and-eligibility.html\)](http://bankruptcy.findlaw.com/chapter-13/chapter-12-basics-and-eligibility.html) for more details.

**Chapter 9**

Chapter 9 is titled, "Adjustment of Debts of a Municipality" and allows cities, towns, counties, school districts, and other municipalities to declare bankruptcy. This is similar to a Chapter 11 reorganization, but applicable to a city or some other municipality instead of a business entity.

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**Next Steps**

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**Learn how Chapter 7 bankruptcy works.**

By Kathleen Michon ([/Law-Authors/Kathleen-Michon.Html](#)), J.D.

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In Chapter 7 bankruptcy, the bankruptcy trustee cancels many (or all) of your debts. At the same time the trustee might also sell (liquidate) some of your property to repay your creditors. Chapter 7 bankruptcy, also called "straight" or "liquidation" bankruptcy, is so named because the law is contained in Chapter 7 of the federal Bankruptcy Code. Here's an outline of [Chapter 7 bankruptcy \(/legal-encyclopedia/chapter-7-bankruptcy/\)](https://www.encyclopedia/chapter-7-bankruptcy/) – who can file, the forms you'll need, how the process works, and what happens to your property and debts.

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## Chapter 7 Bankruptcy Costs in Time and Money

The whole Chapter 7 bankruptcy process takes about four to six months, costs \$335 in filing and administrative fees, and commonly requires only one trip to the courthouse.

You must also complete credit counseling with an agency approved by the United States Trustee. (For a list of approved agencies in each state, go to the Trustee's website, [www.usdoj.gov/ust](http://www.usdoj.gov/ust) (<http://www.usdoj.gov/ust>), and click "Credit Counseling and Debtor Education.")

## Who Can File

You won't be able to use Chapter 7 bankruptcy if you already received a bankruptcy discharge in the last six to eight years (depending which type of bankruptcy you filed) or if, based on your income, expenses, and debt burden, you could feasibly complete a Chapter 13 repayment plan. (Learn more about the [Chapter 7 eligibility requirements](http://www.nolo.com/legal-encyclopedia/chapter-7-bankruptcy-eligibility-29701.html) (<http://www.nolo.com/legal-encyclopedia/chapter-7-bankruptcy-eligibility-29701.html>).

## Bankruptcy Forms

To file for Chapter 7 bankruptcy, you fill out a petition and a number of other forms and file them with the bankruptcy court in your area. Basically, the forms ask you to describe:

- your property
- your current income and monthly living expenses
- your debts
- property you claim the law allows you to keep through the Chapter 7 bankruptcy process (called "exempt property") -- most states let you keep some equity in your home, clothing, household furnishings, Social Security payments you haven't spent, and other necessities such as a car and the tools of your trade
- property you owned and money you spent during the previous two years, and
- property you sold or gave away during the previous two years.

You'll find step-by-step instructions for filling out all of the required forms in [How to File for Chapter 7 Bankruptcy](http://www.nolo.com/products/how-to-file-for-chapter-7-bankruptcy-HFB.html) ([/products/how-to-file-for-chapter-7-bankruptcy-HFB.html](http://www.nolo.com/products/how-to-file-for-chapter-7-bankruptcy-HFB.html)), by Stephen Elias, Albin Renauer, and Robin Leonard (Nolo). For introductory information on the required forms, see Nolo's section on [Completing the Bankruptcy Forms](http://www.nolo.com/legal-encyclopedia/completing-the-bankruptcy-forms) ([/legal-encyclopedia/completing-the-bankruptcy-forms](http://www.nolo.com/legal-encyclopedia/completing-the-bankruptcy-forms)).

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## Bankruptcy's Magic Wand -- The Automatic Stay

Filing for Chapter 7 bankruptcy puts into effect something called the "automatic stay." The automatic stay immediately stops most creditors from trying to collect what you owe them. So, at least temporarily, creditors cannot legally grab ("garnish") your wages, empty your bank account, go after your car, house, or other property, or cut off your utility service. (Learn more about [bankruptcy's automatic stay](http://www.nolo.com/legal-encyclopedia/how-bankruptcy-stops-creditors-automatic-29723.html) (<http://www.nolo.com/legal-encyclopedia/how-bankruptcy-stops-creditors-automatic-29723.html>).

## Bankruptcy Court's Control Over Your Financial Affairs

By filing for Chapter 7 bankruptcy, you are technically placing the property you own and the debts you owe in the hands of the bankruptcy court. You can't sell or give away any of the property you own when you file, or pay off your pre-filing debts, without the court's consent. However, with a few exceptions, you can do what you wish with property you acquire and income you earn after you file for bankruptcy.

## The Bankruptcy Trustee for Chapter 7 Bankruptcy

The court exercises its control through a court-appointed person called a "bankruptcy trustee." The trustee's primary duty is to see that your creditors are paid as much as possible of what you owe them. And the more assets the trustee recovers for creditors, the more the trustee is paid.

The trustee (or the trustee's staff) will examine your papers to make sure they are complete and to look for nonexempt property to sell for the benefit of creditors. The trustee will also look at your financial transactions during the previous year to see if any can be undone to free up assets to distribute to your creditors. In most Chapter 7 bankruptcy cases, the trustee finds nothing of value to sell. (Learn more about the [role of the Chapter 7 bankruptcy trustee \(http://www.nolo.com/legal-encyclopedia/bankruptcy-trustee-chapter-7.html\)](http://www.nolo.com/legal-encyclopedia/bankruptcy-trustee-chapter-7.html).)

## The Creditors Meeting

A week or two after you file, you (and all the creditors you list in your bankruptcy papers) will receive a notice that a "[creditors meeting](http://www.nolo.com/legal-encyclopedia/meeting-creditors-chapter-7-bankruptcy.html)" (<http://www.nolo.com/legal-encyclopedia/meeting-creditors-chapter-7-bankruptcy.html>) has been scheduled. The bankruptcy trustee runs the meeting and, after swearing you in, may ask you questions about your bankruptcy and the papers you filed. In the vast majority of Chapter 7 bankruptcies, this is the debtor's only visit to the courthouse.

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## What Happens to Your Property

If, after the creditors meeting, the trustee determines that you have some nonexempt property, you may be required to either surrender that property or provide the trustee with its equivalent value in cash. If the property isn't worth very much or would be cumbersome for the trustee to sell, the trustee may "abandon" the property – which means that you get to keep it, even though it is nonexempt. (For information on which types of property are typically exempt, see [When Chapter 7 Bankruptcy Isn't the Right Choice \(/legal-encyclopedia/chapter-7-bankruptcy-option-choice-29676.html\)](http://www.nolo.com/legal-encyclopedia/chapter-7-bankruptcy-option-choice-29676.html).) However, which property is exempt varies by state. You can find your state's exemptions in [Bankruptcy Exemptions by State. \(http://www.nolo.com/legal-encyclopedia/bankruptcy-exemptions-state\)](http://www.nolo.com/legal-encyclopedia/bankruptcy-exemptions-state)

Most property owned by Chapter 7 debtors is either exempt or is essentially worthless for purposes of raising money for the creditors. As a result, few debtors end up having to surrender any property, unless it is collateral for a secured debt (see below). To get a better understanding of what may happen to your property in bankruptcy, check out Nolo's legal area on [Bankruptcy Exemptions and Your Property \(/legal-encyclopedia/bankruptcy-exemptions\)](http://www.nolo.com/legal-encyclopedia/bankruptcy-exemptions).

## How Your Secured Debts Are Treated

If you've pledged property as collateral for a loan, the loan is called a secured debt. The most common examples of collateral are houses and automobiles. If you're behind on your payments, the creditor can ask to have the automatic stay lifted in order to repossess or foreclose on the property. However, if you are current on your payments, you can keep the property and keep making payments as before -- unless you have enough equity in the property to justify its sale by the trustee.

If a creditor has recorded a lien against your property because of a debt you haven't paid (for example, because the creditor obtained a court judgment against you), that debt is also secured. You may be able to wipe out the lien in Chapter 7 bankruptcy. Get in-depth information on how your secured debts are handled in our legal area, [What Happens to Your Debt & Property in Chapter 7 Bankruptcy? \(/legal-encyclopedia/your-property-debts-chapter-7-bankruptcy\)](http://www.nolo.com/legal-encyclopedia/your-property-debts-chapter-7-bankruptcy)

## The Chapter 7 Bankruptcy Discharge

At the end of the bankruptcy process, all of your debts are wiped out (discharged) by the court, except:

- debts that automatically survive bankruptcy, such as child support, most tax debts, and student loans, unless the court rules otherwise, and
- debts that the court has declared nondischargeable because the creditor objected (for example, debts incurred by your fraud or malicious acts). (Get details on what you can, and cannot, wipe out with the [bankruptcy discharge \(http://www.nolo.com/legal-encyclopedia/the-bankruptcy-discharge\)](http://www.nolo.com/legal-encyclopedia/the-bankruptcy-discharge).)

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## Debts Discharged at the End of Chapter 13 Bankruptcy

Find out which debts get discharged at the end of your Chapter 13 repayment period.

By [Baran Bulkat \(/Law-Authors/Baran-Bulkat.Html\)](#), Attorney

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What is your total debt?

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When you complete your Chapter 13 bankruptcy, most of your debts are wiped out by your discharge. In fact, a Chapter 13 bankruptcy discharge is even broader than a Chapter 7 discharge because it wipes out certain debts that would be nondischargeable in Chapter 7 bankruptcy.

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When you complete your Chapter 13 bankruptcy, most of your debts are wiped out by your discharge. In fact, a Chapter 13 bankruptcy discharge is even broader than a Chapter 7 discharge because it wipes out certain debts that would be nondischargeable in Chapter 7 bankruptcy. Read on to learn more about which debts get discharged at the end of Chapter 13 bankruptcy.

### When Do You Receive a Discharge in Chapter 13 Bankruptcy?

In Chapter 13 bankruptcy, you have to pay back a certain amount of your debts through a repayment plan. How much you pay back depends on your debts as well as your income and expenses. Certain priority debts (such as recent taxes, alimony, and child support) must be paid off in full. However, nonpriority unsecured debts do not have to be paid in full, or even at all.

The amount you must pay nonpriority unsecured creditors depends on your income and expenses but it is usually much less than the outstanding balance of the debt. After you complete all plan payments, any remaining balance is discharged and the creditor can no longer come after you to collect the debt. (To learn more, see [Unsecured Debt in Chapter 13: How Much Will You Pay? \(/legal-encyclopedia/how-much-unsecured-debt-repaid-chapter-13-bankruptcy.html\)](#))

Below, we discuss which debts get discharged at the completion of your Chapter 13 bankruptcy.

## Nonpriority Unsecured Debts

The majority of debts discharged in Chapter 13 bankruptcy consist of nonpriority unsecured debts. Below are some of the most common types of nonpriority unsecured debts.

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### Credit Card Debt

Most bankruptcy filers have some amount of credit card debt they would like to get rid of. Since credit card debt is considered nonpriority unsecured debt, any outstanding balance remaining after you complete your repayment plan is discharged.

### Medical Bills

Medical debt is one of the main reasons people file for bankruptcy relief. If you had to incur debt because your medical care was not fully covered by insurance, you can discharge your medical bills through Chapter 13 bankruptcy.

### Personal Loans

Similar to credit card debt, any personal loans you took out also get discharged at the end of your Chapter 13. However, keep in mind that if you pledged an asset as collateral when you took out the loan, Chapter 13 bankruptcy may discharge your personal liability on the loan but the creditor can usually repossess the collateral if you don't pay.

### Older Tax Obligations

Most tax obligations are nondischargeable priority debts. However, certain taxes (such as older income tax obligations) may be considered nonpriority debts and get discharged upon completion of your case if you timely filed your returns and did not commit fraud. (To learn more, see [Tax Debts in Chapter 13. \(/legal-encyclopedia/tax-debt-chapter-13-bankruptcy.html\)](#))

### Debts Related to Breach of Contract or Negligence

If you have a judgment against you because you breached a contract or committed a negligent act, you can usually discharge it through Chapter 13 bankruptcy. However, be aware that Chapter 13 will not discharge a debt for willful or malicious injury to a person.

### Stripped or Crammed Down Liens

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Normally, bankruptcy does not get rid of a creditor's security interest (such as a mortgage or car lender's lien) in your property. However, if certain conditions are satisfied, Chapter 13 bankruptcy allows you to strip junior liens or cram down secured debts.



When a lien is stripped it is treated as an unsecured debt and discharged when you complete your Chapter 13 plan. Similarly, when you cram down a secured loan, you pay the creditor what the collateral is worth and the remaining portion of the debt is classified as unsecured and discharged.

To learn more, see [What is Lien Stripping in Chapter 13 Bankruptcy? \(/legal-encyclopedia/lien-stripping-chapter-13-bankruptcy.html\)](http://legal-encyclopedia/lien-stripping-chapter-13-bankruptcy.html). For more information on cramdowns, go to [Cramdowns in Chapter 13 Bankruptcy: The Basics \(/legal-encyclopedia/cramdowns-chapter-13-bankruptcy.html\)](http://legal-encyclopedia/cramdowns-chapter-13-bankruptcy.html).

## Debts Discharged in Chapter 13 But Not Chapter 7 Bankruptcy

As we discussed, Chapter 13 bankruptcy offers a broader discharge than Chapter 7. Below, we discuss some of the debts that will get discharged in Chapter 13 but not in Chapter 7 bankruptcy.

### Willful and Malicious Damage to Property

Through Chapter 13 bankruptcy you can discharge debts arising out of your willful and malicious damage to another person's property (but not willful injury to another person).

### Debts Incurred to Pay Nondischargeable Taxes

If you pay your tax obligation using a credit card, that debt is normally also considered nondischargeable and you can't wipe it out by filing Chapter 7 bankruptcy. However, in Chapter 13 you can discharge debts you incurred in order to pay nondischargeable tax obligations.

### Certain Debts Arising Out of Divorce or Separation Property Settlement

Domestic support obligations such as alimony or child support are always nondischargeable. However, through Chapter 13 bankruptcy, you can discharge your obligation to your spouse or former spouse for other debts assigned to you in divorce or separation proceedings.

**Example.** Let's assume in your divorce decree you were assigned and required to pay a joint credit card you held with your spouse. If you don't pay it, the credit card company can go after both you and your former spouse despite the family court order assigning the debt to you. If you file for Chapter 7 bankruptcy you can discharge your obligation to the creditor but not to your former spouse. If your former spouse ends up having to pay the debt, he or she can come after you for that money. But a Chapter 13 discharges your obligation to both the creditor and your former spouse.

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## An Overview of Chapter 13 Bankruptcy

Here's how Chapter 13 bankruptcy works.

Updated By [Cara O'Neill \(/Law-Authors/Cara-Oneill.Html\)](#), Attorney

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What is your total debt?

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In Chapter 13 bankruptcy, you keep your property, but pay back all or a portion of your debts over a three to five-year period. This is unlike [Chapter 7 bankruptcy \(http://www.nolo.com/legal-encyclopedia/chapter-7-bankruptcy/\)](#), where most of your debts are cancelled but you may have to surrender some property to the bankruptcy trustee to pay your creditors. Because you end up paying most of your debts over time in Chapter 13 bankruptcy, it is also called reorganization [bankruptcy \(http://www.nolo.com/legal-encyclopedia/bankruptcy/\)](#).

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Learn the basics of Chapter 13 – who is eligible, how creditors are paid, and how the Chapter 13 process works.

### Chapter 13 Eligibility

Chapter 13 bankruptcy isn't for everyone. Because Chapter 13 requires you to use your income to repay some or all of your debt, you'll have to prove to the court that you can afford to meet your payment obligations. If your income is irregular or too low, the court might not allow you to file for Chapter 13.

If your total debt burden is too high, you are also ineligible. Your secured debts cannot exceed \$1,184,200 and your unsecured debts cannot be more than \$394,725 (as of April 2016). A "secured debt" is one that gives a creditor the right to take a specific item of property (such as your house or car) if you don't pay the debt. An "unsecured debt" (such as a credit card or medical bill) doesn't give the creditor this right.

(For details, see [Do You Qualify for Chapter 13 Bankruptcy? \(http://www.nolo.com/legal-encyclopedia/chapter-13-bankruptcy-eligibility-29738.html\)](#))

## The Chapter 13 Process

Before you can file for bankruptcy, you must receive credit counseling from an agency approved by the United States Trustee's office. (For a list of approved agencies, go to the Trustee's website at [www.usdoj.gov/ust](http://www.usdoj.gov/ust) (<http://www.usdoj.gov/ust>) and click "Credit Counseling and Debtor Education.") These agencies are allowed to charge a fee for their services, but they must provide counseling for free or at reduced rates if you cannot afford to pay.

In addition, you'll have to pay the filing fee and file a packet of forms.

## The Chapter 13 Repayment Plan

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The most important part of your Chapter 13 paperwork will be a repayment plan. Your repayment plan will describe in detail how (and how much) you will pay each of your debts. There is no official form for the plan, but many courts have designed their own forms. (For more on repayment plans, see [The Chapter 13 Repayment Plan](http://www.nolo.com/legal-encyclopedia/the-chapter-13-repayment-plan) (<http://www.nolo.com/legal-encyclopedia/the-chapter-13-repayment-plan>).)

## How Much You Must Pay

Your Chapter 13 plan must pay certain debts in full. These debts are called "priority debts," because they're considered sufficiently important to jump to the head of the bankruptcy repayment line. Priority debts include child support and alimony, wages you owe to employees, and certain tax obligations.

In addition, your plan must include your regular payments on secured debts, such as a car loan or mortgage, as well as repayment of any arrearages on the debts (the amount by which you've fallen behind in your payments).

The plan must show that any disposable income you have left after making these required payments will go towards repaying your unsecured debts, such as credit card or medical bills. You don't have to repay these debts in full (or at all, in some cases). You just have to show that you are putting any remaining income towards their repayment.

(Learn more about what [debts you repay in Chapter 13 bankruptcy](http://www.nolo.com/legal-encyclopedia/debts-that-must-be-paid-chapter-13-bankruptcy.html) (<http://www.nolo.com/legal-encyclopedia/debts-that-must-be-paid-chapter-13-bankruptcy.html>).)

### Chapter 13 Bankruptcy Plan Payment Calculator

If you're thinking about Chapter 13 bankruptcy, the [Chapter 13 Payment Calculator](http://www.alllaw.com/articles/nolo/bankruptcy/chapter-13-plan-payment-calculator.html) (<http://www.alllaw.com/articles/nolo/bankruptcy/chapter-13-plan-payment-calculator.html>) can tell you what the minimum monthly payment might be.

## How Long Your Repayment Plan Will Last

The length of your repayment plan depends on how much you earn and how much you owe. If your average monthly income over the six months prior to the date you filed for bankruptcy is more than the median income for your state, you'll have to propose a five-year plan. If your income is lower than the median, you may propose a three-year plan. (To get the median income figures for your state, go to the United States Trustee's website, [www.usdoj.gov/ust](http://www.usdoj.gov/ust) (<http://www.usdoj.gov/ust>), and click "Means Testing Information.") In some instances, below-median debtors will need to extend their plans beyond three years to repay a sufficient amount of debts. Likewise, if an above-median debtor can repay all debts in full in less than five years, then a shorter plan is possible.

## If You Can't Make Plan Payments

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If for some reason you cannot finish a Chapter 13 repayment plan – for example, you lose your job six months into the plan and can't keep up the payments – the bankruptcy trustee may modify your plan, or the court might let you discharge your debts on the basis of hardship. Examples of hardship would be a sudden plant closing in a one-factory town or a debilitating illness.

If the bankruptcy court won't let you modify your plan or give you a hardship discharge, you might be able to convert to a Chapter 7 bankruptcy or ask the bankruptcy court to dismiss your Chapter 13 bankruptcy case (you would still owe your debts, plus any interest creditors did not charge while your Chapter 13 case was pending).

(Learn more about your [options if you can't complete your Chapter 13 plan \(http://www.nolo.com/legal-encyclopedia/the-chapter-13-repayment-plan\)](http://www.nolo.com/legal-encyclopedia/the-chapter-13-repayment-plan).)

### How a Chapter 13 Case Ends

Once you complete your repayment plan, all remaining debts that are eligible for discharge will be wiped out. Before you can receive a discharge, you must show the court that you are current on your child support and/or alimony obligations and that you have [completed a budget counseling course \(http://www.nolo.com/legal-encyclopedia/credit-counseling-debtor-education-requirements-bankruptcy\)](http://www.nolo.com/legal-encyclopedia/credit-counseling-debtor-education-requirements-bankruptcy) with an agency approved by the United States Trustee.

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