

Bankruptcy FAQs

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What is bankruptcy?

[Title 11 of the United State Bankruptcy Code](#) allows an individual, corporation or partnership to obtain relief from certain debts under the law.

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Do I need to list all the stuff that I own?

You are required to list everything you own. Regardless of where the assets are located you are required to list the assets. [Click here to find out what happens when you do not list all your assets.](#)

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Will I lose my stuff once I list it?

Exemptions are used to protect your stuff otherwise known as assets. There is always a chance that you may lose your stuff in a [Chapter 7](#) because it is a liquidation type of Bankruptcy. Meaning that the [Trustee](#) can sell your non-protected stuff to pay your debts. In a [Chapter 13](#) you will have to pay the Trustee in order to keep your non-protected stuff. It is critical that you speak with a qualified [bankruptcy attorney in your area in order to protect your stuff.](#)

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Do I need to list all my creditors?

Yes, you are required to list all your creditors. If you do not list them you will take a chance of either not having your debt discharged or your entire case being dismissed.

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What are the different Chapters in Bankruptcy?

[Chapter 7](#) is the liquidation chapter of the Bankruptcy Code. [Chapter 7](#) cases are commonly referred to as “straight bankruptcy” or “liquidation” cases, and may be filed by an individual, corporation, or a partnership. Under [chapter 7](#), a trustee is appointed to collect and sell all property that is not [exempt](#) and to use any proceeds to pay creditors. In the case of an individual, the debtor is allowed to claim certain property [exempt](#) as we discussed above. Upon the completion of the bankruptcy the debtor will receive a [discharge](#) of their debts. If you are filing bankruptcy for your corporation or partnership the debts of that

entity are discharged but you may still be personally liable for the debt. In the end you may have to file a personal bankruptcy to protect yourself.

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[Chapter 9](#) is solely for municipalities and governmental units.

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[Chapter 11](#) is called the reorganization chapter for either businesses or individuals who have too much debt to file a [Chapter 13](#). The creditors get to vote as to whether or not they will accept the Plan to reorganize. It is very costly to file a Chapter 11 and it is very complex.

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[Chapter 12](#) this is used by individuals, corporations or partnerships who derive their income from family farming. There are debt limits that apply. The Plan must be proposed to repay the creditors over time and it must be approved by the Court.

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[Chapter 13](#) is the debt repayment Chapter for individuals but also those who are sole proprietors can use this chapter. This is if one has regular income to fund the Plan and if your debt limits are less than [\\$336,900 in unsecured debts and \\$1,010,650.00 insecured debts](#). Your Plan can only last 60 months.

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Will bankruptcy stop my garnishments?

Almost without any exception, the answer is YES! If you have been sued on a consumer debt, like a credit card or signature loan, we can usually stop the garnishment with a bankruptcy filing. Creditors have to obey the automatic stay imposed by a bankruptcy filing.

There are some limited exceptions. You can't stop a [child support](#) deduction. Bankruptcy can't be used to stop your child support payment. It *might* be used to stop the extra payment for back or missed support payments but you won't get rid of them in the long-run. You will typically need to file [Chapter 13](#) in order to address back support payments owed, through a payment plan. And if the debt can't be wiped out (e.g. support or most student loans) the garnishment could resume after your case is over.

But for most people, garnishments are for old consumer debts they can't afford to pay. And the deduction is making them fall behind on more important debt, like rent or mortgage and car payments. Bankruptcy will allow you to put the order of payment right again — to allow you to decide who gets paid and who does not.

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Will bankruptcy affect my credit?

Yes, bankruptcy *will* affect your credit. It is up to you to decide on how it will continue to affect your credit life. Initially it will lower your [FICO score](#). However, when you debt is discharged your [debt to](#)

[income ratio](#) may come back into alignment. If you use credit wise and make all payments on time your FICO will return.

“Credit” is not a sign of how good or bad a person you are. It is a measure of your riskiness to future lenders. Credit is not a measure of your value as a person. For lenders it is a business decision. It should be for you too.

Bankruptcy will remain on your credit report for up to ten years but if you act responsibly after filing bankruptcy your FICO score will rebound.

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Is credit counseling required before I file bankruptcy?

Credit Counseling is required to be completed within 180 days prior to filing bankruptcy. If you have not taken or completed this course and you file bankruptcy your case will be dismissed within about 72 hours after filing. Click here to ensure that you take the [credit counseling course from an approved agency](#). If the agency is not approved your credit counseling will result in the dismissal of your bankruptcy case.

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What is the means test?

The [means test](#) is the test that you must take in order to file bankruptcy. This will determine whether or not you qualify for a [Chapter 7](#) or [Chapter 13](#) Bankruptcy. The only time you do not have to use the [means test](#) is when your debts are 51% or more business debts or for a Chapter 9 or Chapter 12.

Regardless of you [means test](#) status you may qualify for a [Chapter 7](#) or [Chapter 13](#). There is nothing cut and dry about the [means test](#). [Click here to review the US Trustee information regarding means testing](#).