

Bankruptcy Basics for Nevada Residents

by Shawn Christopher

The decision to file for bankruptcy is a difficult one, often considered the worst case scenario. However, in many instances it may be your best option. For example, filing for bankruptcy can stop a foreclosure, repossession, or garnishment, allowing you some precious time to deal with your financial troubles. In addition, you may be able to eliminate many types of your debt (in a Chapter 7) or develop a payment schedule (in a Chapter 13) to ease your financial burden. Each client's unique situation will dictate whether a client should file for bankruptcy, and then if a Chapter 7 or Chapter 13 filing is appropriate.

Chapter 7

Chapter 7 filings are commonly known as the "straight" bankruptcy. These filings are for the traditional liquidation of personal, business or partnership assets. Generally, the types of liabilities that may be extinguished include, but are not limited to: medical bills; credit card debts; judgments (in cases not involving fraud or criminal conduct); personal loans or debts; and deficiencies on foreclosed properties or repossessed vehicles.

By extinguishing these debts, you will in effect get a fresh start. Moreover, you will usually be able to keep all of your property (including your house and vehicle as long as you are current with your payments and able to continue to make these payments). However, filing for Chapter 7 is not allowed for all persons seeking to file Bankruptcy. In order to determine if you are eligible, please contact our office to arrange a consultation on which type of Bankruptcy is right for you.

From start to finish, a Chapter 7 Bankruptcy can be completed in approximately 120 days. The final step of the process will involve the debtor receiving a discharge, which is the final document that wipes out all of the dischargeable debts.

Chapter 13

Unlike Chapter 7 filings, Chapter 13 filings do not just simply wipe out your debts. You will have to make payments over a 3 to 5 year period to the Bankruptcy Trustee. Typically, these payments to your creditors are less than your regular monthly payments.

A payment plan will have to be developed which will allow you to pay all of your living expenses and secured obligations and a portion of your unsecured obligations. The monthly payment due to the Trustee under a payment plan is based primarily on your income and expenses. If you do not have a regular income, you will not be eligible to file under this Chapter. After the Court approves the payment plan, and all payments due under the plan

are made, you will receive the discharge.

Chapter 13 filings are generally used for persons who earn more than the threshold amount set for filing under Chapter 7, have assets over the exemption limits, or have other debts that may not just be simply discharged. In addition, filing under Chapter 13 may allow you time to get current on your mortgage payments (allowing you to keep your home) or alter your payments on your vehicle (allowing you to keep your vehicle).

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