



Chapter 7 Bankruptcy-Marianas Office

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Marianas Office-MLSC*

If you have too many debts and can't pay them, you may want a "fresh start." Chapter 7 Bankruptcy is a legal process to help people (and businesses) who are struggling with debt to extinguish (end) their current, existing obligations.

The process for bankruptcy depends on what chapter of bankruptcy law you proceed under, based on your situation, and what type of discharge you seek. If you want information about other bankruptcy options, please seek additional legal help.

Who is eligible for Chapter 7 Bankruptcy?

A Chapter 7 Bankruptcy is designed to discharge (or wipe out) certain qualified debts for people who the bankruptcy law considers to have insufficient income to repay their debts. You qualify for a Chapter 7 Bankruptcy if your income falls below the median income for a household of your size in your location. As of November 1, 2022 the median income for a family of four in the Commonwealth of the Northern Mariana Islands is \$52,091.

If your income is above the median income for your household size, you might still qualify for a Chapter 7 Bankruptcy. If your income is above the median, you will have to complete the "means test" to determine if you can file bankruptcy under Chapter 7 or instead must file under Chapter 13. If the means tests determines that you must file under Chapter 13, then you will have to repay some of your debts over a period of 3 to 5 years.

Do I need a Chapter 7 Bankruptcy?

You might want to consider a Chapter 7 bankruptcy if:

- * you have court judgments against you that you are unable to repay in full
- * you have a lot of credit card debt
- * you have lost your job or experienced a reduction in income and can no longer afford your previous expenses;
- * you incurred large amounts of debt for a medical situation or emergency that was not covered by insurance;
- * you owe everybody and don't have enough to make all the payments;

- * your home is in foreclosure, or your car is repossessed, or you're facing eviction/termination of utilities/or other loss of significant necessities;
- * or you have some other debt struggle and need financial or psychological relief.

How can a Chapter 7 Bankruptcy help?

The basic concept of a Chapter 7 Bankruptcy is that

- * you get to keep a limited amount of your assets, this is called your “exempt property;”
- * everything else you own is non-exempt property and is sold by the bankruptcy trustee and the proceeds are distributed to your creditors in proportion to the debts owed them.
- * the remainder of your debts owed to the creditors are then “discharged” and the creditors may not seek further payment on them ever again.

Another benefit of seeking bankruptcy is that as soon as you file, all collection on your debts must stop. This is called the “automatic stay.”

What property may I keep?

In the CNMI, your exempt property is set by the federal bankruptcy statutes. There are multiple categories of exempt property under the federal exemptions. How much of your property is exempt and will be protected in a Chapter 7 Bankruptcy depends upon the specific facts of what you own. Many low income debtors will be able to protect everything they own in a Chapter 7 Bankruptcy.

What about my spouse? My co-signer?

You may file as an individual or with your spouse. Co-signers are not protected by your bankruptcy. The discharge is personal to the debtor, not the debt.

What else should I expect in the Chapter 7 Bankruptcy process?

Although the bankruptcy law is designed to give you a fresh start, it is also set up to help you through education to avoid financial problems in the future. You will need to participate in credit counseling before filing for bankruptcy and undergo debtor education before the discharge is final.

You cannot give preferential treatment to some creditors and there will be an examination of transfers going back 90 days from before you file to make sure you didn't do that. The process requires an extremely detailed look at your finances, so you need a lot of paperwork and information to proceed.

There are filing fees, but you may seek a waiver if you are living in poverty.

Can I file for Chapter 7 Bankruptcy more than once?

You can only receive one bankruptcy discharge every 8 years. If you get in financial trouble after you receive a bankruptcy discharge, you will have to wait at least 8 years before you can file for bankruptcy again.

Advantages & Disadvantages:

Some advantages to Bankruptcy are:

- * the automatic stay which gives you immediate relief from creditors, whether they are pursuing payment in court or just through their private dunning calls;
- * the expansive relief that is available in discharging your debts forever;
- * and the fresh start with consumer education to help you make better financial decisions in the future.

Some disadvantages to Chapter 7 Bankruptcy are:

- * a negative effect on your credit rating;
- * not all debts can be discharged, including debts for child support, certain taxes, government benefit overpayments, criminal restitution and most damages for intentional or fraudulent wrongdoings
- * secured debts, like car loans and mortgages, cannot be completely discharged, instead you must either reaffirm the debt (come to an agreement with the lender), redeem the property (pay in one lump sum the full value of the property) or surrender the property (give the property to the lender).

How to get more help about Chapter 7 Bankruptcy:

Bankruptcy is a federal court proceeding under US statutory law. It can be complex and confusing. It helps to have an attorney represent you through the course of proceedings. You can find basic information at <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics>

If you think bankruptcy may be right for your situation, feel free to contact MLSC or a private attorney of your choosing for help.