

BANKRUPTCY

- Individuals and businesses use bankruptcy as a way to get relief from debt.
- **Types of bankruptcy relief:** Individuals or businesses can file for bankruptcy under Chapter 7, Chapter 11, Chapter 12 or Chapter 13 of the Bankruptcy Code. Individuals usually file under Chapter 7 or Chapter 13.
- **Chapter 7** bankruptcy is called a *liquidation*, or “fresh start” bankruptcy. Debtors filing for Chapter 7 bankruptcy must meet certain qualifications. A trustee liquidates (sells) the debtor’s “non-exempt” assets to pay creditors. Certain “exempt” property cannot be sold.
 - Examples of “non-exempt” assets: stamp, coin or other valuable collections; family heirlooms; cash, bank accounts, stocks, bonds, and other investments; a second home.
 - Examples of “exempt assets”: certain property, such as equity in a house, a vehicle, furniture, clothes, etc.
 - The bankruptcy court will discharge (eliminate) most remaining debts and creditors cannot force the individual to pay the rest of the debt.
- **Chapter 13** bankruptcy (*individual reorganization*) allows an individual to keep some property, but some or all of the debt must be paid back under a payback plan. Individuals filing Chapter 13 bankruptcy must meet certain qualifications.
 - A Chapter 13 trustee oversees the “reorganization” plan, supervised by the bankruptcy court. The court orders a discharge after all debts have been paid under the plan. The debtor must pay creditors at least as much as they would receive if the assets were liquidated in a Chapter 7 case.
- **When To File for Bankruptcy**

A person considering bankruptcy should talk with an experienced bankruptcy lawyer to

find out if and when to file.

- **How To File for Bankruptcy**

The debtor files a petition with the bankruptcy court listing personal and work information, as well as all assets and debts on documents called *schedules*.

Then the debtor meets with a trustee (and sometimes creditors), who check the petition and schedules for accuracy and may ask questions about the debtor's finances.

- **Courts Don't Always Give Bankruptcy Relief**

The bankruptcy does not always discharge debts in a bankruptcy. For example, if a debtor has destroyed, concealed, or removed assets, or lied or refused to answer questions during the bankruptcy case, the court may refuse to discharge debts.

- **Some Debts Still Must Be Paid**

Even if the court grants a general discharge, the debtor still must pay some debts.

Examples: student loans, divorce debts, criminal fines and debts arising from a DUI, and any debt caused by the debtor's wrong, "willful" act.

- **Filing Bankruptcy Affects Credit**

The debtor's credit record includes a bankruptcy for up to ten years, making it hard to get a new loan, or increasing the interest rate on a loan.