

Delta Law Basic Outline of a Chapter 7 Bankruptcy and Restrictions

NOTE: This is just a summary of the basic events and issues related to bankruptcy. There are many other considerations than those presented here. There are many exceptions and a skilled attorney can develop strategies to accomplish your goals despite apparent roadblocks.

Effect of Chapter 7 Bankruptcy:

- Elimination or discharge of unsecured debt such as credit cards, medical bills, old utility bills, unpaid loans, some types of judgments and some types of old tax debt. Most secured debts such as mortgages and car loans pass through the bankruptcy but can be discarded if you choose to discard the secured property (i.e., the car or real estate). Sometimes you can modify the loan/mortgage terms during the bankruptcy. **NOTE:** A secured debt is an obligation to repay a debt that is tied to an asset such that if you fail to pay the debt the creditor can go after the asset in order to pay the debt.
- Stops creditors from pursuing you to pay discharged debts. **NOTE:** During the bankruptcy case there is a bankruptcy stay in place that stops creditors from contacting you. For the creditors holding discharged claims, the stay continues after the case is over.
- Reported on your credit report for 10 years as a public record.
- Some credit providers/lenders may limit access to credit for a period of time. This includes mortgage and auto loan lenders.
- Some landlords may not rent property to you with a bankruptcy filing on your credit report.
- You may pay higher rates for certain kinds of insurance.

Chapter 7 Qualifications:

-Must have a yearly gross income that is less than the guideline maximum amounts posted by the federal government. This check of the guidelines against your income is the Means Test. The Pennsylvania Income Limit per size of family unit as of 11/1/2020 are:

1 Person	2 Persons	3 Persons	4 Persons
\$57,213	\$70,577	\$87,217	\$103,857

Most people can meet these guidelines. The income guidelines change every few years so the amount you receive is based upon when you file.

- Must not have too many assets. In bankruptcy, your assets (i.e., TV, car, 401k) are protected from your creditors using exemptions. Exemption amounts are limited so you can only protect so much of value from your creditors in bankruptcy. Fortunately, the bankruptcy exemptions are pretty generous and most people keep all of their assets. If you have excess assets above the exemption amount, you can still file bankruptcy and eliminate your unsecured debt, however, you might be forced to turn over some of the excess to the Trustee who then distributes this to your creditors.
- Must not have filed a Chapter 7 Bankruptcy and received a discharge within 8 years of a new filing.
- If are not qualified for a Chapter 7 bankruptcy, you may still be able to file a Chapter 13 bankruptcy case.

Chapter 7 Players:

- The Debtor(s): That's you, and/or your wife, if married. Married individuals can file as an individual or with their spouse.
- The Creditors: These are the people or entities that you owe money to.
- The Chapter 7 Trustee: This person is employed by the government to ensure that the bankruptcy estate is managed in accordance with the bankruptcy law. The bankruptcy estate is created when you file bankruptcy and is a pot where your debts and assets are placed until the case is complete.
- The Chapter 7 Bankruptcy Judge: This person oversees the whole bankruptcy process and is the referee in a forum (i.e., the court) where disputes between the Chapter 7 Players are resolved.

-Lawyers: Most of the other Chapter 7 Players are represented by lawyers or are lawyers due to their special knowledge of the bankruptcy law and procedures that are needed.

Chapter 7 Time Line:

-The whole process requires 90-120 days in most cases.

-Preparation of bankruptcy filing: A few weeks are required to prepare the paperwork (Petition and Schedules). This paperwork outlines all of your assets and debts and income and expenses and other information about you. A credit report can be ordered to assist preparation.

-Debtor education class: Required prior to filing the case. There is a small fee for the class and it can be taken over the phone or on-line. This "class" basically a questionnaire about your current financial status.

-Meeting of Creditors: This takes place approximately 30 days after you file your documents. The meeting is a chance for creditors and the Chapter 7 Trustee to question you about the filing. In fact, most meetings are just the Debtor, the Debtor's Lawyer and the Chapter 7 Trustee and are complete in 10 minutes. Your lawyer should fully prepare you for this meeting.

-Financial Management Course: This is a second "class" the Debtor must take before the case is complete. There is a small fee for this and consists of you being given tips and recommendations on how to budget your spending going forward after the bankruptcy.

-Discharge Order and Order closing case: These are orders that the judge issues discharging (removing) your unsecured debt and closing the case.

Rules of The Road:

-Chapter 7 Bankruptcy is governed by Title 11 of the United States Code (Federal Law) or Bankruptcy statutes, Bankruptcy Rules of Procedure and case law (i.e., prior decisions of courts). The Bankruptcy Court is a Federal Court as apposed to a state court.