60 Second "Cheat Sheet" - Bankruptcy Basics

Chapter 7

Chapter 7 is the most common kind of bankruptcy. More people file chapter 7 than any other kind of bankruptcy. You do not normally lose property in a Chapter 7. In fact, most of our clients keep the house car and all of their other property while discharging all of their debts and paying nothing on them. Of course, if you're going to keep a house or car that you owe money on then you have to pay the house and car payments. You don't get to keep these things without paying for them.

There are some limits on how much property you can keep a Chapter 7, but most people don't exceed these limits. For example, you get to keep $20,000 worth of equity in a house, $3,200 equity in a car, and all your household furnishings are covered by an exemption that is approximately $10,000. So, you can see that Chapter 7 covers most people just fine.

There are some limitations, however. You need to be current on your payments if you're going to keep the car or the house. If you are behind in these payments, will probably lose this property in a Chapter 7 bankruptcy. You should look at a Chapter 13 if this is the case.

Chapter 13

Chapter 13 is most commonly used by people who are trying to keep their house from foreclosure or trying to keep a car from being repossessed when they are behind in their payments. There are other reasons to file Chapter 13. Sometimes people make enough money that the law presumes that they're able to pay all or some of their debts. Most Chapter 13 do not pay off all of the unsecured debts! In fact, most Chapter 13 plans pay back only a small percentage of the unsecured debts, like medical bills and credit cards. Sometimes only 1%.

Chapter 13 is a great program to reorganize your debt. Generally you can significantly lower your monthly payments on bills because you are not paying, in most cases, 100%. In Chapter 13 you make payments to a trustee for a period of 36 to 60 months. You continue to pay your ordinary living expenses on your own. Chapter 13 is a flexible program and can usually be changed while you're in one if the circumstances of your life change.

Bankruptcy and credit

Most people think, erroneously, that bankruptcy is a long-term detriment to their credit. This is not true. I carefully explain to all of my clients how to rebuild their credit while they're in their bankruptcy, and what to do after their bankruptcy discharge is granted to make sure that their credit scores are correct. In today's credit world, bankruptcy can actually be a positive factor. For example, if you have more debt on your credit report and you can reasonably expect to pay the next 20 to 30 years, you're never going to see a very good credit score. However, if you discharge all of this debt in a bankruptcy your credit score is going to be able to be restored very quickly. Most of my clients are able to buy automobiles at reasonable interest rates only a year after their bankruptcy is over. Many of my clients are buying real estate two years after their bankruptcy discharge is granted.