

5 BENEFITS OF USING BANKRUPTCY TO ELIMINATE YOUR DEBT



THE MOAK
LAW FIRM

Chandler Arizona's Trusted Bankruptcy Attorney

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WELCOME



Thank you for ordering my E-Book on 5 Benefits of Using Bankruptcy to Eliminate Your Debt. Congratulations for taking steps to change your situation for the better. However, the information in this brief explanation of some of the benefits of bankruptcy and the basic process is not a substitute for a detailed examination of your financial situation and development of a specific strategy for your long-term success.

We welcome the opportunity to meet with you and discuss how your situation can be improved and to outline the steps you need to take to maximize the benefits of moving ahead with debt relief. Debts can be oppressive and in many ways restrict your freedom and can cause long term negative consequences on your ability to ever have a debt-free future. Don't stop here; make an appointment for a free consultation so you know what can be changed in your financial life for a better future.

Almost without exception, the people who come in for a consultation are both enlightened and relieved after learning that there are workable options to help them obtain a fresh start. You probably have been worried for some time about your future and wondering about how you will ever get out from under your debts. You will probably have a better night's sleep than you have had in many months after we meet.

Once we decide to work together, you will have the benefit of detailed guidance through the whole process. While both of us will have some work to do to get the result you want, we have the experience to make the process much easier for you and as painless as possible.

Debt relief is closer than you think. Call my office and schedule a free consultation. What you are going through now does not have to be what is in store for your future. You can stop the downward spiral and learn how to soar again. **IT IS ALL ABOUT FREEDOM.**

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You may be feeling like many others who are also overwhelmed due to financial distress. Although your life would definitely be less stressful if you could eliminate those debts you cannot pay, you may hesitate to file bankruptcy because you believe there is some negative stigma associated with bankruptcy. Some of that stigma comes from misunderstanding how bankruptcy works and a failure to understand why the U.S. Constitution and the Holy Bible have provided people like you with the option of debt relief through bankruptcy. Even in ancient Israel, creditors were required to forgive the debts of their debtors every 7 years (See Deut. 15:1-3). Article 1, Section 8, Clause 4 of the U.S. Constitution provides the instructions for Congress to establish federal courts for the purpose of giving honest but unfortunate debtors relief through bankruptcy. Bankruptcy is all about freedom and redemption. Stop letting guilt and frustration control your life. Continue reading to learn more about five of the biggest benefits offered by bankruptcy.



1

ELIMINATE MOST, IF NOT ALL, OF YOUR DEBTS AND KEEP MOST, IF NOT ALL, OF YOUR PROPERTY



You may be fearful of bankruptcy because you believe you will lose your property. However, if you are like over 95% of those filing Chapter 7 bankruptcy, you can keep all of your property because most, if not all, of what you own is exempt. Arizona law protects most of your property with exemption laws. The home where you live is protected for up to \$150,000 of equity. Each debtor can claim an exemption

to protect their household furnishings and appliances including TVs up to \$6,000 each for their combined value based upon what you could sell such items for in a garage sale. Each debtor can protect one motor vehicle as long as the equity does not exceed \$6,000 on each vehicle based upon the fair market value in private party sale. You can protect 100% of the money you have in a qualified retirement account and 100% of the money can identify as proceeds from Social Security benefits.

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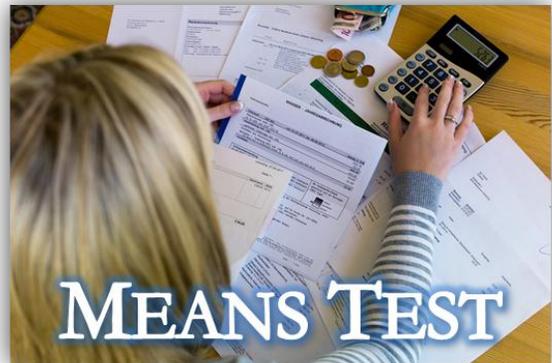
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Some luxury assets may not be retained without paying the trustee the amount the trustee could get by selling those assets in an auction. However, it is entirely legal to do some pre-bankruptcy planning to increase what you can keep and decrease what you might lose. With the right guidance you can sell those non-exempt assets and use the money to pay living expenses, stock up on food, fuel and provisions for you and your family for 6 months. You can also sell non-exempt assets and buy other assets which are exempt such as upgrading your old car, replacing old and inefficient appliances, or improving your home. The practice of pre-bankruptcy exemption planning is common but requires the guidance of a knowledgeable attorney.

People who file bankruptcy under Chapter 7 of the Bankruptcy Code do not have to use any of their future income to pay anything to the creditors whose claims are discharged. For Chapter 7 cases, the bankruptcy court is interested in what you own and what you owe on the date your case is filed and will consider your average monthly income over the last 6 months prior to filing bankruptcy as the measurement of your income for the “Means Test.” Most debtors who go through Chapter 7 will receive a permanent “discharge of debts” within about 3 ½ months.

Chapter 7 bankruptcy is quicker and cheaper than a Chapter 13 bankruptcy. While most people needing debt relief prefer to use Chapter 7 bankruptcy, some people may not qualify for Chapter 7 which is intended for people whose income is lower than the median income for those of the same household size in their state. However, even if your income is above the median level, it is likely that you can qualify for Chapter 7 relief if your living expenses are such that you do not have the “means” necessary to pay a significant portion of your debts over the next 5 years. This process of demonstrating that you’re your situation, given your income and your expenses, qualifies you for using Chapter 7 is called the “Means Test.”

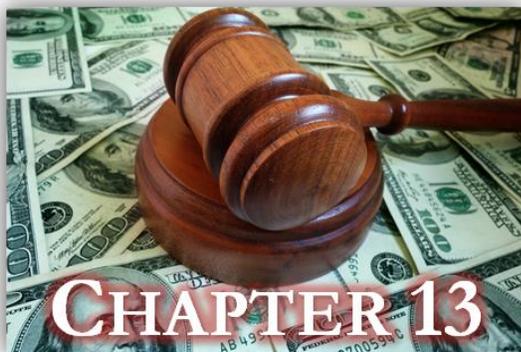


Some people who filed a Chapter 13 bankruptcy do so because they don’t qualify for Chapter 7. However, some people choose to file bankruptcy under Chapter 13 because of the benefits Chapter 13 offers which are not available under Chapter 7. Those facing home foreclosure are allowed to use the next 5 years to catch up on their mortgage

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arrears and save their home. If you have more than one mortgage and your home is worth less than the amount owed on the first mortgage, you can “strip-off” the junior mortgages and emerge from the Chapter 13 with only the first^t mortgage remaining. If you have large tax debts or child support arrears which are priority type debts, you can use Chapter 13 bankruptcy to stop interest and penalties and pay 100% of those arrears during the next 5 years and avoid any legal action to collect such debts. If you own non-exempt assets which you could lose in a Chapter 7 bankruptcy, you can keep those assets in a Chapter 13. These and other benefits might cause you to prefer using Chapter 13 bankruptcy even if you qualify for Chapter 7.



Chapter 13 requires that you have regular income and some of that income in the future will be used to pay a set amount each month to the trustee who will distribute that money to the creditors in the order that the law provides. Chapter 13 involves submitting a “Plan” which outlines which creditors are to be paid and how much they will be paid over the life of the plan which might be as short as 3 years, but never longer than 5 years. The

“Plan” might need to be amended or modified if your income changes and there is not enough money to pay the amount previously stated in the plan. However, you must have enough money available to pay what is required to be paid in the plan or your plan will fail because it is not “feasible.” As in Chapter 7 all collection activity is stopped immediately upon filing bankruptcy. However, in Chapter 13 the permanent order granting a discharge of the debts does not come until the successful completion of the plan.

Remember: Bankruptcy is not the end of your financial life; it is a NEW BEGINNING. Many very successful people filed bankruptcy before they made it big in their financial life. Don’t continue down the path of slavery created by overwhelming debt and interest charges which could last your whole life. Now is the time to take back your life and get out from under the oppression of debts you cannot pay. Both you and society benefit from your freedom to make a contribution to the growth of our economy.

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2 COLLECTION EFFORTS MUST BE STOPPED

According to the Consumer Financial Protection Bureau, Americans are subject to more than \$30 million in debt collection with an average amount of debt per person of \$1500. Across the country, 4,500 debt collection centers take on the responsibility of “hunting down” individuals with letters and phone calls. This contact can easily get out of control and make you feel harassed and irritated. Bankruptcy is a way to stop this behavior and allow you to re-take control of your life.



When you file for bankruptcy, all of the collection efforts against you must be stopped immediately. For those of you being tracked by a number of debt collection agencies, this probably sounds like music to your ears. Even though there are laws and regulations governing the behavior of debt collection agencies, many of the individuals employed by these firms will walk extremely close to the harassment line in an effort to get you to pay back your debt.

Officially, creditors are legally prohibited from taking any action to collect a debt from someone who has filed bankruptcy without first obtaining permission from the Court. However, when you hire an attorney, you can inform those creditors calling you of the name and phone number of your attorney and instruct them to stop calling you and to call your attorney. This will usually cause the creditors to stop calling. When you file, the calls and harassing contact should stop immediately.



If you continue to be contacted by these individuals after they know about your filing, you can report them. Many people who go through the process of bankruptcy find this aspect the most freeing. After months or even years of stressful phone calls that interrupt your life, the relief from discontinued collection efforts is usually the first sign that you have made the right move in your life.

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3 KEEP IT PRIVATE

The stress from being contacted by debt collectors can be irritating and may bleed into your personal and work life. At some point, your coworkers and other individuals might be asking you what's wrong, prompting you to make the decision about whether to tell them the financial problems you are facing or to try and hide it. Taking your concerns to a bankruptcy attorney can be the first step at a fresh start you so desperately need.



Bankruptcy can be a relatively private process to go through and one that allows you to address your financial concerns without having to discuss them outside of court. It's up to you who you tell about your bankruptcy. If you choose, your friends, family, and coworkers don't need to know anything about your bankruptcy filing or proceedings. Bankruptcy allows you the right to keep your financial information private. The only way that your bankruptcy filing will really come out is on a credit history report when you're applying for a new credit card or a loan. Being aware of when and how it's shared is your way to have some control over the situation and allow you to rebuild yourself financially without the judgment and humiliation of a public issue.

As is mentioned above, some debt collectors go out of their way to make your life difficult- pinging your personal cell phone or home line all the time. If you have children, this can be an embarrassing or frustrating experience. When you make the move to speak to a bankruptcy attorney and submit your filing paperwork, those calls will stop, and you're back in control of your private financial matters.

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4

DISCHARGE DEBT

Discharging debt is obviously one of the biggest reasons that people look into bankruptcy in the first place. It's important to note that there are differences between the two biggest types of personal bankruptcy, Chapter 7 and Chapter 13. In a Chapter 7 discharge, all of your unsecured debt like credit cards, personal loans and medical bills, can be discharged through the bankruptcy process. You can keep your car and continue to pay the installments as if you had not filed bankruptcy or you can turn in the car and stop paying the installments. In Chapter 13, you propose a repayment plan to the court that you must follow for the period proposed in the plan. At the end of the plan period those creditors which are not paid in full are discharged. In many cases, the unsecured creditors receive a very small percentage of the debt owed and the balance is discharged at the end of the plan.



The decision about which type of filing to choose is a conversation you should have with your attorney. Getting all of your information together is another good step to take so that you know what you are trying to have discharged in bankruptcy. Some debts, like recent tax debts, domestic support obligations and student loans are generally not discharged through bankruptcy. However, there are strategies which can help you deal with those creditors which can make your financial life more normal.

Many people find freedom in having their debt discharged because it allows them to take lessons from the past and apply them in the future without the ghost of debt haunting them. Some people find themselves in bankruptcy through no fault of their own, such as a medical emergency. The discharge of debt in bankruptcy is their chance to move on instead of being strapped with debt.

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5 REBUILD YOUR CREDIT IN PEACE

Bankruptcy is your chance for a fresh start. If you're overwhelmed by your debt and worried about your financial future, bankruptcy is the pathway towards rebuilding that credit privately. In many states, some form of credit counseling or credit education is used to tell you more about rebuilding your credit. You can use this and many other tools, like websites, books or even in-person classes to regain control of your life and move on effectively.

Most likely, you'll walk away from your bankruptcy with the knowledge to make wiser choices going forward. This doesn't mean, however, that you are completely ineligible for forms of credit in the future. All creditors rely upon your credit score to help them make the decision to extend credit to you. Typically, within the first year after your discharge, your credit score will rise between 70-90 points. Within two years post discharge, your credit score will recover to the range of between 600 and 620. This recovery will depend upon whether you are remaining current on the payment of debts you reaffirmed or new credit obtained post bankruptcy.

As of the date this e-book was written, people can qualify for home financing in most cases two years following their discharge. Taking a couple of tips to heart and putting some simple strategies to work is a great way to rebuild your credit on your terms. Post-bankruptcy, you might have to pay a higher percentage rates on loans and credit cards. After several months or longer of making on-time payments and showing good faith efforts to use cards responsibly, you become a stronger candidate for an improved credit score and better opportunities (like a mortgage) in the future. Use free credit report tracking tools to be aware of your behavior and celebrate your achievements. Many people find that bankruptcy was just what they needed to get their life back on track.



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It will take a couple of years to build your FICO score back up, but you probably already know this about bankruptcy. That being said, it is possible to rebuild your credit score and bankruptcy allows you to do that on your terms rather than drowning in debt. You should think about the impact that debt collection calls and the pressure of debt is having on your life. Would you rather be stuck without any options or would you rather grab control of your life and take an important step towards improving your future? There's no shame in contacting a bankruptcy attorney to get the fresh start you deserve.

The Process of Declaring Personal Bankruptcy

Are you prepared to take the next step in declaring bankruptcy and getting a fresh start? Here's everything you need to know about the process. Relieve your stress and uncertainty by learning more about what to expect. The procedure of bankruptcy is governed by federal law under the Federal Bankruptcy Court. Through this established procedure, debtors are eligible to be treated fairly as they go about the process of restructuring, paying, or discharging their debts.

Filing



Filing the bankruptcy petition with the court opens your bankruptcy case. The bankruptcy court charges a filing fee which if not paid will result in your case being dismissed. The total package of papers to be filed is typically around 60 pages of schedules and statements containing details about your assets, your debts and your financial affairs. The package also includes a list of the names and addresses

for all the creditors entitled to be notified that you filed bankruptcy. Failure to list all of your creditors can allow those creditors which are not notified to continue collection efforts. Once you have filed your petition an automatic stay goes into effect on your case. The automatic stay instantly halts debt collection efforts against you.

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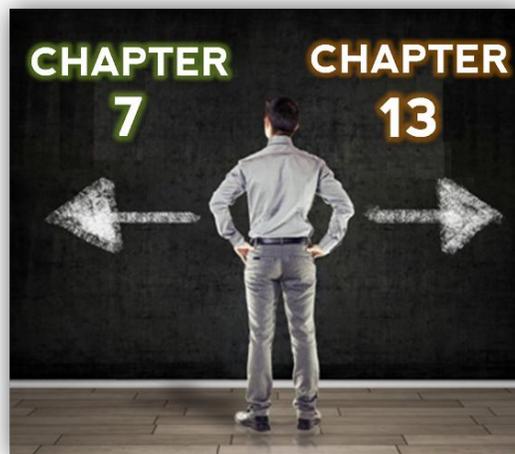
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The court will assign your case to a trustee who will have the responsibility to review your bankruptcy papers. The trustee will set a date and time for a Meeting of Creditors and send out a notice to you and to your creditors. The creditors will also have the opportunity to review the bankruptcy papers and to attend the Meeting of Creditors. Creditors, and in some cases a trustee, may file objections or other types of motions regarding your case. You should also pay close attention to any communication from the court, since failing to cure deficiencies or respond to objections or motions could lead to your case being dismissed.

If you are petitioning for Chapter 13 bankruptcy, you need to submit your proposed repayment plan to the trustee and begin making payments to the trustee within 30 days after case is filed. You must continue to make the payments according to the plan and you may even have to adjust your payments in order to cure objections from the trustee or creditors. It is not at all unusual to have to make several amendments to the plan before it can be confirmed (approved) by the court.

Next Steps: Chapter 7 and Chapter 13

When you file the petition, the Bankruptcy Court assigns a case number and notifies your creditors. Most creditors can be notified very quickly through an electronic process, which is why it's so important that you provide a complete listing of your liabilities when you file. The Court will also appoint a bankruptcy trustee to manage your case. The trustee is responsible at this early stage for identifying any non-exempt assets.



In a Chapter 7 case, a trustee is appointed to look out for the interests of the creditors. The trustee will evaluate whether any non-exempt assets you own have a high enough resale value to justify taking possession of those assets so they can be sold. The money generated from the sale of non-exempt assets will be distributed to the creditors after the trustee is paid a percentage as part of his fee.

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In most cases, the non-exempt assets are not valuable enough to produce enough money to make a meaningful distribution to the creditors. However, the trustee is charged with a duty to use diligence in discovering the assets of the debtor. As a debtor, you are under the duty to disclose all of your assets. There are serious penalties for failing to disclose your assets which range from denial of a discharge to financial fines and imprisonment. Bankruptcy works well for all involved when debtors are honest about disclosing their assets. Every case is subject to being audited by the U.S. Trustee's office.

The Meeting of Creditors

Almost immediately after your case is filed, the Court assigns your case to a trustee and a date and time is set for a meeting of creditors (often called the 341 meeting) which is usually about 4-5 weeks after your case is filed. The Court will mail out a Notice of the Meeting of Creditors to you and to your creditors. You are required to attend this meeting and answer questions under oath. However, the questions are easy and every debtor has to answer the same questions.



This meeting will typically last only about 5-10 minutes. Your attorney will attend this meeting with you and help you understand what to expect at the meeting. These are not formal court hearings, but your testimony is under oath. The trustee will send you a letter with a short questionnaire and a request for copies of some documents. It is important to respond to the letter so your discharge will not be delayed. One of the documents the trustee will request is a copy of the most recently filed tax return which is due at least seven days prior to the meeting of creditors. Failing to attend the creditor's meeting can be cause for your case to be dismissed.

It is extremely rare for any creditors to attend the meeting of creditors. If it turns out that the trustee comes into possession of assets which may result in a distribution of funds to creditors, the trustee will notify the creditors to submit their claims and the Court will set a "bar date" for submitting claims. Those creditors which submit claims are eligible to participate in sharing the funds being distributed. Although this process will not hold up your receiving a discharge, your case will remain open until all of the funds are distributed and the Court approves of everything the trustee has done.

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Your attorney will give you a list of typical questions asked at the meeting of creditors. You will be asked to bring an official picture ID and your Social Security Card or other proof of your Social Security Number. In most cases you will be able to listen while other bankruptcy debtors are examined by the trustee. If you have disclosed the information requested by your attorney and the petition tells the trustee the information requested on the bankruptcy forms in an understandable manner, the meeting is very short in duration and should cause you no stress.

There is a period of 60 days after the meeting of creditors which is the time during which creditors might file objections to your receiving a discharge. However, such objections are extremely rare.

Concluding Your Case

Most Chapter 7 cases take approximately 3 to 4 months until you see a complete discharge. In a chapter 13 bankruptcy case the creditors are sent a copy of your bankruptcy plan for them to review. The creditors must file a proof of claim in order to participate in the distribution of the funds you pay to the trustee. It is not unusual for the proposed plan to be amended to correct the amounts to be paid to creditors or to satisfy objections from the trustee assigned to your case. After these adjustments are made the Court will sign an order confirming the plan and the trustee will start distributing funds to the creditors according to the confirmed plan.

In a chapter 13 case, If there are no significant changes in your income or expenses you will continue to make the payments according to the confirmed plan. Remember that the discharge for a chapter 13 case comes after you complete the plan which will after making payments over a three to five year period.

Not all debts are dischargeable in bankruptcy and your attorney will help you understand which debts will survive the bankruptcy. For example: Recent tax debts, debts arising out of divorce and student loans are not likely to be discharged for public policy reasons.



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After your case is over, it will take some time to rebuild your credit. Thankfully, there are a lot of great resources out there on how to do this and improve your credit score. It might take some time, but if you are like most others who are considering bankruptcy because you are feeling swallowed up by large amounts of debt, bankruptcy is the clear choice for regaining control and rebuilding your life.

Learn More

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