

## **BANKRUPTCY INFORMATION SHEET**

**BANKRUPTCY LAW IS A FEDERAL LAW. THIS SHEET GIVES SOME GENERAL INFORMATION ABOUT WHAT HAPPENS IN A BANKRUPTCY CASE. THE INFORMATION HERE IS NOT COMPLETE. YOU MAY NEED LEGAL ADVICE.**

### **WHEN YOU FILE BANKRUPTCY:**

**You can choose the kind of bankruptcy that best meets your needs:**

**Chapter 7- A trustee is appointed to take over your property. Any property of value will be sold or turned into money to pay your creditors. You may be able to keep some personal items and possible real estate depending on the law of the state where you live.**

**Chapter 13- You can usually keep your property, but you must earn wages or have some other source of regular income and you must agree to pay part of your income to your creditors. The court must approve your repayment plan and your budget. A trustee is appointed and will collect the payments from you, pay your creditors, and make sure you live up to the terms of your repayment plan.**

**Chapter 12- Like chapter 13, but it is only for family farmers.**

**Chapter 11- This is used mostly by businesses. In chapter 11, you may continue to operate your business, but your creditors and the Court must approve a plan to repay your debts. There is no trustee unless the Judge decides that one is necessary; if a trustee is appointed, the trustee takes control of your business and property.**

**If you have already filed bankruptcy under chapter 7, you may be able to change your case to another chapter.**

**Your bankruptcy may be reported on your credit record for as long as ten years. It can affect your ability to receive credit in the future.**

### **WHAT IS A BANKRUPTCY DISCHARGE AND HOW DOES IT OPERATE?**

**One of the reasons people file bankruptcy is to get a “discharge.” A discharge is a Court order which states that you do not have to pay most of your debts. Some debts cannot be discharged. For example, you cannot discharge debts for-**

- most taxes;**
- child support;**
- alimony;**
- most student loans;**
- court fines and criminal restitution; and**
- personal injury caused by driving drunk or under the influence of drugs.**

**The discharge only applies to debts that arose before the date you filed. Also, if the Judge finds that you received money or property by fraud, that debt may not be discharged.**

**It is important to list all your property and debts in your bankruptcy schedules. If you do not list a debt, for example, it is possible the debt will not be discharged.**

**The Judge can also deny your discharge if you do something dishonest in connection with your bankruptcy case, such as destroy or hide property, falsify records, or lie, or if you disobey a Court order.**

**You can only receive a chapter 7 discharge once every six years. No one can make you pay a debt that has been discharged, but you can voluntarily pay any debt you wish to pay. You do not have to sign a reaffirmation agreement or any other kind of document to do this.**

**Some creditors hold a secured claim (for example, the bank that holds the mortgage on your house or the loan company that has a lien on your car). You do not have to pay a secured claim if the debt is discharged, but the creditor can still take the property.**

### **WHAT IS A REAFFIRMATION AGREEMENT?**

**Even if a debt can be discharged, you may want to work out a plan with the bank to keep your car. To promise to pay that debt, you must sign and file a reaffirmation agreement with the Court. Reaffirmation agreements are under special rules and are voluntary. They are not required by bankruptcy law or by any other law. Reaffirmation agreements-**

- must be voluntary;**
- must not place too heavy a burden on you or your family;**
- must be in your best interest; and**
- can be cancelled anytime before the Court issues your discharge or within 60 days after the agreement is filed with the Court, whichever gives you the most time.**

**If you are an individual and you are not represented by an attorney, the Court must hold a hearing to decide whether to approve the reaffirmation agreement. The agreement will not be legally binding until the Court approves it.**

**If you reaffirm a debt and then fail to pay it, you owe the debt the same as though there was no bankruptcy. The debt will not be discharged and the creditor can take action to recover any property on which it has a lien or mortgage. The creditor can also take legal action to recover a judgment against you.**

**IF YOU WANT MORE INFORMATION OR HAVE QUESTIONS ABOUT HOW THE BANKRUPTCY LAWS AFFECT YOU, YOU MAY NEED LEGAL ADVICE. THE TRUSTEE IN YOUR CASE IS NOT RESPONSIBLE FOR GIVING YOU LEGAL ADVICE.**

## **DUTIES AND RESPONSIBILITIES OF A DEBTOR UNDER CHAPTER 7**

**In either a personal or corporation bankruptcy, the Debtor (and its representative) has certain continuing obligations to the Trustee and to the court. Failure to fulfill these obligations could result in your discharge being denied or revoked or could result in criminal sanctions being imposed against you. It is your sworn obligation to fully comply with all requirements of law; you must advise me if any of the conditions and circumstances stated apply to you.**

- 1. You must promptly advise me if you remember or become aware of any property interests (property rights of any type) that you owned or were entitled to at the date you filed your bankruptcy, which you may have forgotten or of which you did not become aware until some later date after you filed bankruptcy.**
- 2. You must advise me of any inheritance or monies that you receive or become entitled to as a result of a death which occurred either before you filed bankruptcy or with in six (6) months of your filing bankruptcy.**
- 3. You must provide written notice to me of the monies or property you may receive as a result of a final divorce decree (excluding child support) which occurred either before you filed bankruptcy or with in six (6) months after the date you filed your bankruptcy petition. (A copy of the Divorce Decree and the Property Settlement Agreement or Agreement Incident to Divorce will suffice.)**
- 4. You must notify me of any monies you may receive as a beneficiary of a life insurance policy or as a result of a death benefit plan that you acquire or become entitled to prior to the filing of bankruptcy or within six (6) months after the date you filed your bankruptcy petition.**
- 5. You must turn over any monies that you may receive as a result of rental properties.**
- 6. You must advise me of any leases, contracts or agreements that require you to provide services or property in the future which entitles you to services or property in the future.**
- 7. You must turnover to me any transfers, conveyances of gifts of your property which you have not scheduled and which were made within one (1) year prior to the date you filed bankruptcy.**
- 8. You must advise me of any repayments made by you of any debts within one (1) year prior to filing bankruptcy. You need not advise me of repayments you have properly scheduled or if the total amount involved was \$1,000.00 or less.**

9. You must advise me of any tax refund in excess of \$1,000.00 you anticipate receiving or actually received in the year immediately after you filed bankruptcy.
10. Please be aware that you are still responsible for filing your own personal income tax return reporting income for items not transferred to the bankruptcy estate (such as wages or dispositions of exempt or abandoned property). You should inform your tax advisor of the filing of your bankruptcy position, as it affects your own personal tax return. If necessary for the administration of the bankruptcy estate, I will request copies of pertinent tax returns
11. **CORPORATE OR PARTNERSHIP DEBTORS – ONLY.** In order to comply with the Federal Income Tax Laws applicable to this type of bankruptcy estate, I need you to supply me with copies of your last two (2) most recent returns, regardless of year.
12. **COPORATE DEBTORS – ONLY.** Debtor's Representative must advise me of all bank accounts owned by the Corporation, both open and closed, on the day of filing, including name and address of the bank, account numbers, and who is authorized to withdraw on the account. **This is the property of the estate from the date of the filing and no withdrawals should be made by anyone after that date. You must promptly advise me of any such withdrawals, and provide me with a complete accounting of those transactions.**
13. You are required to complete your statement as to your intention concerning secured debt on consumer obligations within forty-five (45) days after filing your Chapter 7 bankruptcy. I will assume that you have done so within the time provided unless you advise me in writing to the contrary, and state your plans to remedy any default.

You have sworn a legal obligation, as provided for by law, to promptly provide me with the information requested herein upon learning that any of the above information applies. I request that you advise me in writing of all facts which are necessary to fully determine whether the circumstances of your case require action by me as your Trustee. **If you receive money or property under any of the categories listed above, you must keep all such monies or property in your possession** until I have directed you to take a specific course of action. I and my office are always happy to respond to phone inquiries regarding the administration of your bankruptcy case.

Along with this notice, you will be receiving a Bankruptcy Information Sheet required under 11 U.S.C. §341. You must review and be familiar with this information prior to the Meeting of Creditors. I will assume that you have done so. If you have any questions regarding the Statement, please ask at the Creditor's meeting or contact your attorney.

## **STATEMENT OF INFORMATION REQUIRED BY 11 U.S.C. §341**

### **INTRODUCTION**

Pursuant to the Bankruptcy Reform Act of 1994, the Office of the United States Trustee, United States Department of Justice, has prepared this information sheet to help you understand some of the possible consequences of filing a bankruptcy petition under Chapter 7 of the Bankruptcy Code. This information is intended to make you aware of-

- (1) the potential consequences of seeking a discharge in bankruptcy, including the effects of receiving a discharge of debts;
- (2) the effect of receiving a discharge of debts;
- (3) the effect of reaffirming a debt; and
- (4) your ability to file a petition under a different chapter of the Bankruptcy Code.

There are many other provisions of the Bankruptcy Code that may affect your situation. This information sheet contains only general principles of law and is not a substitute for legal advice. If you have questions or need further information as to how the bankruptcy laws apply to your specific case, you should consult with your lawyer.

### **WHAT IS A DISCHARGE?**

The filing of a Chapter 7 petition is designed to result in a discharge of most of the debts you listed on your bankruptcy schedules. A discharge is a Court Order that says you do not have to repay your debts, but there are a number of exceptions. Debts which may not be discharged in your chapter 7 case include, for example, most taxes, child support, alimony, and student loans; court-ordered fines and restitution; debts obtained through fraud or deceptions; and personal injury debts caused by driving while intoxicated or taking drugs. Your discharge may be denied entirely if you, for example, destroy or cannot ask you to pay any debts which have been discharged. You can only receive a Chapter 7 discharge once every six (6) years.

### **WHAT ARE THE POTENTIAL EFFECTS OF A DISCHARGE?**

The fact that you filed bankruptcy can appear on your credit report for as long as ten (10) years. Thus, filing a bankruptcy petition may affect your ability to obtain

credit in the future. Also, you may not be excused from repaying any debts that were not listed on your bankruptcy schedules or that you incurred after you filed bankruptcy.

## **WHAT ARE THE EFFECTS OF REAFFIRMING A DEBT?**

After you file your petition, a creditor may ask you to reaffirm a certain debt or you may seek to do so on your own. Reaffirming a debt means that you sign and file with the Court a legally enforceable document, which states that you promise to repay all or a portion of a debt that may otherwise have been discharged in your bankruptcy case. Reaffirmation agreements must generally be filed with the Court within sixty (60) days after the first meeting of creditors.

Reaffirmation agreements are strictly voluntary—they are not required by the Bankruptcy Code or other state or federal law. You can voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

Reaffirmation agreements must not impose an undue-burden on you or your dependents and must be in your best interest. If you decide to sign a reaffirmation agreement, you may cancel it at any time before the Court issues your discharge order or within sixty (60) days after the reaffirmation agreement was filed with the Court, whichever is later. If you reaffirm a debt and fail to make the payments required in the reaffirmation agreement, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt.

## **OTHER BANKRUPTCY OPTIONS**

You have a choice in deciding what chapter of the Bankruptcy Code will best suit your needs. Even if you have already filed for relief under Chapter 7, you may be eligible to convert your case to a different chapter.

Chapter 7 is the liquidation chapter of the Bankruptcy code. Under Chapter 7, a trustee is appointed to collect and sell, if economically feasible, all property that you own that is not exempt from these actions.

Chapter 11 is the reorganization chapter most commonly used by businesses, but it is also available to individuals. Creditors vote on whether to accept or reject a plan, which also must be approved by the Court. While the debtor normally remains in control of the assets, the Court can order the appointment of a trustee to take possession and control of the business.

Chapter 12 offers bankruptcy relief to those who qualify as family farmers. Family farmers must propose a plan to repay their creditors over a three-to-five year period and it must be approved by the Court. Plan payments are made through a

Chapter 12 trustee, who also monitors the debtor's farming operations during the pendency of the plan.

Finally, Chapter 13 generally permits individuals to keep their property by repaying creditors out of their future income. Each Chapter 13 debtor writes a plan which must be approved by the Bankruptcy Court. The debtor must pay the Chapter 13 trustee the amounts set forth in their plan. Debtors receive a discharge after they complete their Chapter 13 repayment plan. Chapter 13 is only available to individuals with regular income whose debts do not exceed \$1,000,000 (\$250,000 in unsecured debts and \$750,000 in secured debts).

**AGAIN, PLEASE SPEAK TO YOUR LAWYER IF YOU NEED FURTHER INFORMATION OR EXPLANATION, INCLUDING HOW THE BANKRUPTCY LAWS RELATE TO YOUR SPECIFIC CASE.**

### **THE MOST COMMON QUESTIONS ASKED ABOUT CHAPTER 7**

**1. What is Chapter 7 and how does it work?**

Chapter 7 is that part of the federal bankruptcy law that permits a person to be released from personal liability for his or her unsecured debts except those listed below in paragraph 3. The debtor is allowed to keep all exempt property. The debtor must attend a brief meeting about one month after the filing of the case. The Chapter 7 Trustee who is appointed to the case will review the paperwork at this meeting. An attorney from our office will be with you at this meeting. You can refer your creditors to our law office after you set up a payment plan for your attorney fee. Your creditors must stop all collection efforts after the date your case is filed with certain exceptions, such as past due child support payment and criminal fines and penalties.

**2. What is a Chapter 7 discharge?**

It is a court order releasing a debtor from all of his or her dischargeable debts and ordering the creditors not to attempt to collect them from the debtor. A debt that is discharged is one that the debtor is released from and does not have to pay. Some debts, however, are not released by a Chapter 7 discharge, and some persons are not eligible for a Chapter 7 discharge.

**3. What debts are not release by a Chapter 7?**

All debts of any kind or amount, including debts incurred in other states, are released by a Chapter 7 discharge, except those listed below. The following debts cannot be discharged under Chapter 7;

1. **debts for certain taxes, including taxes that became due within the last three years;**
  2. **if the creditor files a complaint and if the court so rules, for obtaining money, property, services, or credit by means of false pretenses, fraud, or a false financial statement (included here are certain debts for luxury goods or services and for certain cash advances made within 60 days before the case is filed);**
  3. **debts not listed on the debtor's Chapter 7 papers, unless the creditor knew of the case in the time to file a claim;**
  4. **if the creditor files a complaint and if the court so rules, for fraud, embezzlement, or larceny;**
  5. **debts for alimony, maintenance, or support, with certain very limited exceptions (or those in the nature of alimony, maintenance or support – no matter what they are called);**
  6. **if the creditor files a complaint and if the court so rules, for international or malicious injury to the person or property of another;**
  7. **debts for certain fines or penalties;**
  8. **debts for student loans, guaranteed by the U.S. government, that became due within the last seven years, unless not discharging the debt would impose an undue hardship on the debtor and his or her dependents,**
  9. **debts arising from a judgment or court decree entered against the debtor for damages resulting from the operation of a motor vehicle while legally intoxicated;**
  10. **debts that were or could have been listed in a previous bankruptcy case of the debtor in which the debtor did not receive a discharge; or**
  11. **debts for malicious or reckless failure by a banker or former banker to fulfill certain commitments by him to maintain the capital of the institution of which he worked (insured depository).**
4. **Can a person be denied a Chapter 7 discharge?**

**Everyone is eligible for a Chapter 7 discharge except the following persons:**

1. **those who have been granted a discharge in a Chapter 7 case filed within the last eight years;**
2. **those who have been granted a discharge in a Chapter 13 case filed within the last six years, unless 70 percent or more of the unsecured claims were paid off in the Chapter 13 case;**

3. **those who file a waiver of discharge in their Chapter 7 case that is approved by the court;**
4. **those who conceal, transfer, or destroy their property with the intent to defraud their creditors or the Trustee in the Chapter 7 case;**
5. **those who conceal, destroy, or falsify records of the financial condition or business transactions;**
6. **those who make false statements or claims in their Chapter 7 case, or who withhold recorded information from the Trustee in the case;**
7. **those who fail to satisfactorily explain any loss or deficiency of their assets; or**
8. **those who refuse to answer questions or obey orders of the bankruptcy court, either in their case or in the case of a relative, business associate, or corporation.**

**5. Who may file under Chapter 7?**

**Any person who resides in, who does business in, or who has property in the United States may file under Chapter 7, except a person who has been involved in another bankruptcy case that was dismissed within the last 180 days on certain grounds. It may not be wise, however, for a debtor to file under Chapter 7 if he is not eligible for a Chapter 7 discharge. Also, it may not be wise for a debtor with sufficient current income with which to repay a substantial portion of his debts within a reasonable period to file under Chapter 7, because the court may dismiss the case as constituting an abuse of Chapter 7.**

**6. Where is a Chapter 7 case filed?**

**In the office of the clerk of the bankruptcy court of the district where you have lived or maintained your principle place of business for the greatest portion of the last 180 days. The bankruptcy court is a federal court and is a unit of the United States district court.**

**7. Under what conditions should a husband and wife both file under Chapter 7?**

**Both husband and wife should file if some of the debts to be discharged are owed by both spouses. If both spouses are liable for some of the debts and if only one spouse files under Chapter 7, the creditors often try to coerce the non-filing spouse into paying the debts, even if he or she has no income or assets. In community property states, however, it is customary for both spouses to file if most of the debts are community debts. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.**

8. **How does filing under Chapter 7 affect lawsuits and attachments that have already been filed against the debtor?**

The filing of a Chapter 7 case automatically stays or stops most lawsuits and attachments that have been filed against the debtor. A few days after a chapter 7 case is filed, the court will mail a notice to all creditors ordering them to refrain from any further action against the debtor. If the debtor cannot wait this long, it is permissible for him or his attorney to notify one or more of the creditors of the filing of the case. Any creditor who intentionally violates this court may be liable to the debtor in damages. The most common actions not affected by the filing of a Chapter 7 case are criminal proceedings and actions for the collection of debts for alimony, maintenance, or support from exempt property or from property or funds acquired earned by the debtor after the case was filed.

9. **May a person file under Chapter 7 if his debts are being administered by a financial counselor?**

Yes. A financial counselor, or credit counseling service, has no legal right to prevent anyone from filing under Chapter 7.

10. **How does filing under Chapter 7 affect a person's credit rating?**

Filing a Chapter 7 case is usually reported to the credit reporting agencies but your credit report probably does not look too good to begin with. We have provided you with a list of how you can get credit and rebuild your credit immediately. Some financial institutions openly solicit business from persons who have recently filed under Chapter 7, apparently because it will be at least six years before they can again file under Chapter 7. If there are compelling reasons for filing under Chapter 7 that are not within the debtor's control (such as an illness or an injury), some credit rating agencies may take that into account in rating the debtor's credit after filing.

11. **Are the names of persons who file under Chapter 7 published?**

When a Chapter 7 case is filed, it becomes a public record and the name of the debtor may be published by some credit-reporting agencies. However, newspapers do not usually report or publish the names of consumers who file under Chapter 7.

12. **Does a person lose any of his or her legal rights by filing under Chapter 7?**

No. Filing under Chapter 7 is not a criminal proceeding, and a person does not lose any of his civil or constitutional rights by filing.

13. **May employers or government agencies discriminate against persons who file under Chapter 7?**

It is illegal for either private or governmental employers to discriminate against a person as to employment because that person has filed under chapter 7. It is also illegal for local, state, or federal governmental units to discriminate against a

person as to the granting of licenses (including a driver's license), permits, and similar grants because that person has filed under chapter 7.

**14. Will a person lose any of his property if he files under chapter 7?**

**No. The debtor may keep his exempt property. Non-exempt property will be liquidated by the trustee and used to pay the debtor's creditors in the order and priority set forth in the bankruptcy code. Exemptions may be claimed under either State or Federal law but not both.**

**15. When must a person go to court in a Chapter 7 case and what happens there?**

**The first court appearance will be about a 30 to 40 days after the case is filed for a hearing called the "meeting of creditors" or, §341 meeting. At this hearing the debtor will be placed under oath and questioned about his money, property and debts by the trustee. In most chapter 7 cases of consumers, none of the creditors appear in court; but if one does appear he will be allowed to question the debtor. There may be another hearing which the debtor may have to attend, only if he is reaffirming any of his dischargeable debt. It is not usually necessary for the debtor to testify at this hearing, however, as the purpose of the hearing is for the court to advise the debtor on certain matters. It is imperative that a debtor attends his meeting of creditors. Failure to attend will usually result in his case being dismissed.**

**16. What happens after the meeting of creditors?**

**After the meeting of creditors, the trustee may contact the debtor regarding the collection or existence of non-exempt property or documents relating to non-exempt property, and the court may issue orders to the debtor. The trustee may request your canceled checks, bank statements and income tax returns. These orders will be sent by mail and may require the debtor to turn certain property over to the trustee, or provide the trustee with certain information. The debtor should contact his attorney if there is any question with regard to any of these matters.**

**17. What is a trustee in a Chapter 7 case, and what does he do?**

**The trustee is an officer of the court, appointed to gather the debtor's non-exempt property, turn it into cash, and pay the money out to the proper creditors. In addition, the trustee has certain administrative duties in a chapter 7 case, and is the officer in charge of seeing to it that the debtor performs the duties required of him in the case. A trustee is appointed in a chapter 7 case, even if the debtor has no property for the trustee to collect.**

**18. What are the debtor's responsibilities to the trustee?**

**The law requires the debtor to cooperate with the trustee in the administration of a chapter 7 case, including the collection by the trustee of the debtor's non-exempt property. If the debtor does not cooperate with the trustee, then his case may be dismissed and his debts may not be discharged. Concealment**

of assets by the debtor from the trustee is a federal crime. The making of false oaths is also a crime. The bankruptcy schedules and statement of financial affairs are signed under oath. The debtor must make full disclosure of all assets, liabilities, lawsuits and property.

19. What do creditors with mortgages against the debtor's property do in a Chapter 7 case?

Creditors with valid mortgages against the debtor's property are usually permitted to repossess or foreclose on the property, if the value of the property does not exceed the amount secured by the property and the mortgage is in default. If the mortgage is current on exempt property the debtor merely continues to make his regular payment (such as a car or house payment) as before and keeps the property. Although the debt will be wiped out by the bankruptcy discharge the mortgage lien is usually not extinguished in the proceeding. The lien may be enforced after bankruptcy even if the debt has been discharged. Foreclosure will usually only take place where the loan is in monetary default which is not timely cured. The filing of bankruptcy is not sufficient grounds for calling a loan or declaring a default. A creditor must prove the validity of his mortgage and obtain a court order, however, before repossessing or foreclosing on any property, and the debtor should not turn any property over to a creditor until a court order has been obtained. If the value of the mortgaged property exceeds the amount secured by the mortgage, the creditor might not be allowed to repossess the property. The debtor is permitted to retain certain property even if there is a valid mortgage against it and the debtor may redeem certain mortgaged property from the creditor by paying less than the amount secured by the mortgage.

20. What do creditors without mortgages do in a Chapter 7 case?

If the debtor has non-exempt assets, creditors without mortgages (they are called unsecured creditors) may file claims with the court within 90 days after the date of the meeting of creditors. The trustee examines these claims and files objections to those that he deems improper. When the trustee has collected all of the debtor's non-exempt property and converted it to cash, and when the court has ruled on any objections filed against the claims of creditors, the trustee distributes the funds according to certain priorities. Administrative expenses, claims for wages, salaries, and contributions to employee benefit plans, claims for the refund of certain deposits, and tax claims, are given priority, in that order, in the distribution of funds by the trustee. If there are funds remaining after the payment of these priority claims, they are distributed pro rata to the remaining unsecured creditors. If the debtor has no non-exempt assets, the creditors are notified not to file claims. If assets are later discovered the creditors will then be given an opportunity to file claims.

21. What should the debtor do if he moves before his chapter 7 case is closed?

He should immediately between a debtor and a bankruptcy court are by mail, and if the debtor fails to comply with a court order or a directive of the trustee because he did not receive it, his chapter 7 case may be dismissed and his discharge not granted. It is important, therefore, that the bankruptcy court always have the

debtor's current address. Many courts have change-of-address forms for the debtors to use when they move, and the debtor should obtain one when he is in court for the meeting of creditors.

**22. How is a debtor notified that his discharge has been granted?**

Usually by mail. Most courts send a form called "Discharge of Debtor" to the debtor and to all creditors. This form is a copy of the court order releasing the debtor from his dischargeable debts, and it usually serves as notice that the debtor's discharge has been granted. It is usually mailed about four months after the case is filed, unless the trustee or creditor has filed an objection to the discharge of the debtor, in which case a hearing must be held so that the court can rule on the objection. If the debtor's discharge is not granted, the court must inform the debtor of the reasons for not granting it.

**23. What if the debtor wishes to repay one or more of his discharged debts after filing under chapter 7?**

A debtor may repay as many of his dischargeable debts as he wishes after filing chapter 7. By repaying one creditor, a debtor does not become legally obligated to repay any other creditor. The only discharged debts that the debtor is obligated to repay after filing under chapter 7 are those for which the debtor and the creditor have entered into what is called a reaffirmation agreement that meets certain requirements of the bankruptcy law, which are too technical to list here. After you file your petition, a creditor may ask you to reaffirm a certain debt or you may seek to do so on your own. Reaffirming a debt means that you sign and file with the court a legally enforceable document, which states that, you promise to repay all or a portion of the debt that may otherwise have been discharged in your bankruptcy case. Reaffirmation agreements must generally be filed with the court within 60 days after the first meeting of creditors.

Reaffirmation agreements are strictly voluntary. Reaffirmation agreements are not required by the Bankruptcy Code or other state or federal law. You can voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

Reaffirmation agreements must not impose an undue burden on you or your dependents and must be in your best interest. If you decide to sign a reaffirmation agreement, you may cancel it at any time before the court issues your discharge order or within sixty (60) days after the reaffirmation agreement was filed with the court, whichever is later. If you reaffirm a debt and fail to make the payments required in the reaffirmation agreement, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt.

**24. How long does a chapter 7 case last?**

A chapter 7 case begins with the filing of the case and ends with the closing of the case by the court. If the debtor has no nonexempt money or property for the trustee to collect, the case will most likely be closed shortly after the debtor receives

his discharge, which is usually about four months after the case is filed. If the debtor has nonexempt money or property for the trustee to collect, the length of the case will depend on how long it takes the trustee to collect the assets and perform his other duties in the case. Most consumer cases with assets last about six months, but some last considerably longer.

25. What should a person do if a creditor later attempt to collect a debt that was discharged in his chapter 7 case?

When a discharge is granted, the court enters an order prohibiting the creditors from later attempting to collect from the debtor any debt that was discharged in the chapter 7 case. If a creditor violates this court order he may be held in contempt of court and fined; and he may be liable to the debtor in damages. If a creditor later attempt to collect a discharged debt, the debtor should give the creditor a copy of the order of discharge and inform him that the debt has been discharged under chapter 7. If the creditor persists, the debtor should contact his attorney. If the creditor files a lawsuit against the debtor, it is important not to ignore the matter, because even though any judgment entered against the debtor on a discharged debt can later be voided, voiding the judgment may require the services of an attorney, which could be costly to the debtor.

26. Does a chapter 7 discharge affect the liability of other parties who may be liable to a creditor on a discharged debt?

A chapter 7 discharge releases only the debtor. The liability of any other party on a debt is not affected by a chapter 7 discharge. The only exception to his rule is in community property states where the spouse of a debtor may also be released from certain community debts.

27. What is the role of the attorney for a consumer debtor in a chapter 7 case?

The debtor's attorney performs the following functions in a chapter 7 case of a typical consumer:

1. Analyze the amount and nature of the debts owed by the debtor and determine the best remedy for the debtor's financial problems.
2. Advise the debtor of the relief available under chapters 7, 11, 12 and 13 of the bankruptcy laws, and of the advisability proceeding under each chapter. Chapters 7 and 13 are primarily used by individuals (consumers). Chapter 12 is primarily used for farmers and chapter 11 if primarily used for business corporations.
3. Assemble the information and data necessary to prepare the chapter 7 forms for filing
4. Prepare the petitions, schedules, statements, and other chapter 7 forms for filing with the bankruptcy court.

5. Assist the debtor in arranging his assets so that he can retain as much of them as possible after the chapter 7 case.
6. Filing the chapter 7 petitioners, schedules, statements, and other forms with the bankruptcy court, and if necessary, notifying certain creditors of the commencement of the case.
7. If necessary, assisting the debtor in redeeming certain personal property and in setting aside certain mortgages or liens against exempt property.
8. Attending the meeting of creditors with the debtor.
9. If necessary, preparing and filing amended schedules and certain statements and other documents with the bankruptcy court in order to protect the rights of the debtor.
10. If necessary, attending reaffirmation hearing with the debtor and assisting the debtor in reaffirming certain debts.

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