

1: Chapter 7 Means Test Calculation | United States Courts

A chapter 7 bankruptcy case does not involve the filing of a plan of repayment as in chapter 13. Instead, the bankruptcy trustee gathers and sells the debtor's.

Chapter 7 Bankruptcy for a Family of Four Image via Wikipedia A Chapter 7 Case for a Family of Four A young married woman with a husband and two children, who are living with her mother, recently posted on a bankruptcy site about her financial woes. She lives in New Jersey and wants to know if she should file for a Chapter 7 bankruptcy. No one can really tell her whether she should file bankruptcy or not, but understanding the bankruptcy process helps those considering filing and whether you should make the decision. Filing for a Chapter 7 bankruptcy depends on a lot of financial circumstances. Filing any bankruptcy depends on similar circumstances. Here are some of the circumstances you might want to consider before filing bankruptcy: The Means Test Should be Considered To file a Chapter 7 bankruptcy in any state, you have to be either below the median income for a family your size in the state in which you live or you have to pass the Means Test. It was devised to stop serial filers from filing bankruptcy and abusing the system, and the Means Test itself is a complicated formula to help you see whether or not you have enough disposable income to pay some of your debtors. If you do, you have to file a Chapter 13 in lieu of a Chapter 7. Your Personal Assets Play a role in Helping You Decide How much income you make is only one of the deciding factors in determining whether you can file a Chapter 7 or not. Most Chapter 7 bankruptcies are filed by people with little or no personal non-exempt assets. State and federal laws determine what personal assets you can keep when you file for any bankruptcy. Exempt personal assets are those defined by either state or federal bankruptcy laws. In a Chapter 7, any non-exempt asset will be taken and liquidated in order to pay off unsecured debtors in a prioritized list. The couple in the illustration did not have any personal non-exempt assets, and from that perspective, they would be candidates to file a Chapter 7. The Amount of Debt You Owe Can Help You Decide Whether to File How much debt you owe can play a large role in not only determining whether or not to file bankruptcy, but it can help you determine which bankruptcy to file. A Chapter 13 has ceiling limits on the amount of debts you owe, but a Chapter 7 does not. Neither have a minimum amount of debt to file, but what is the sense of filing if you have no debt nor assets to protect? If you cannot pay down any principal on the debts you owe plus the interest owed after paying all your living expenses that include taxes and retirement, you are theoretically bankrupt. If you owe large unmanageable debts that are non-exempt from bankruptcy discharge and cannot possibly begin to pay them down within a five year period, you might be a candidate for filing a Chapter 7. From the information provided and since they live with her mother and make the kind of money they do, there is the possibility they can pay much of their debt off in five years. Whether the couple decide to file bankruptcy or not, they probably need to sit down with an experienced bankruptcy lawyer to help them decide.

2: Means Testing | UST | Department of Justice

Chapter 7 bankruptcy can remain on your credit report for up to 10 years. You will lose all of your credit cards. You will lose property that you own if it's not exempt from sale by the bankruptcy trustee.

This table is for general information purposes only and is not legal advice. While we make every attempt to keep the data provided on this page as current as possible, the median income table may be updated at any time, causing the information on this page to become out of date. For the latest information on state median incomes when filing bankruptcy, visit the U. Trustee Program Web site or consult with a local personal bankruptcy attorney. If so, call or fill out the below form to talk for free with a local bankruptcy lawyer. Connect today for free: [More Information on the Bankruptcy Means Test and Median Incomes](#) Median income is calculated by separating all households into two groups of equal size, with half earning more than the median and half earning less. Median income varies significantly from state to state, and even within a state depending upon the size of your family. In the Chapter 7 means test, your income is determined by looking at household earnings for the six months prior to your bankruptcy filing, and multiplying by two for an annual household income. If you fall below the median income, you may typically continue with a Chapter 7 filing. If you fall above the median income, a more complex analysis follows to determine how much disposable income you have available for payments to your creditors each month. The above table provides current median income figures for each state and family size. For more information on how these figures may be used in your bankruptcy case, connect with a local bankruptcy attorney. Visit the [Bankruptcy Means Test](#) section to learn more about qualifying to file Chapter 7 bankruptcy. [Learn More with a Local Lawyer](#) The median income table represents only one part of the bankruptcy means test to determine if you can file Chapter 7 bankruptcy, or should consider Chapter 13 bankruptcy. For more information on the means test, median income and other bankruptcy requirements, connect with a local bankruptcy attorney today by filling out our free bankruptcy evaluation form. The information provided on this site is not legal advice, does not constitute a lawyer referral service, and no attorney-client or confidential relationship is or will be formed by use of the site. The attorney listings on this site are paid attorney advertising. In some states, the information on this website may be considered a lawyer referral service. Please reference the [Terms of Use](#) and the [Supplemental Terms](#) for specific information related to your state.

3: Chapter 7 Bankruptcy Income Limits by State

The Means Test Should be Considered. To file a Chapter 7 bankruptcy in any state, you have to be either below the median income for a family your size in the state in which you live or you have to pass the Means Test.

Chapter 7 is that part of the federal bankruptcy laws permitting a person to discharge certain debts by filing a case in the bankruptcy court, turning all of his or her nonexempt property over to a trustee, and obeying the orders and rules of the court. 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. What debts are not released by a Chapter 7 discharge? 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 types of debts cannot be discharged under Chapter 7: Everyone is eligible for a Chapter 7 discharge except the following persons: 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 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 or if some of his debts will not be released by 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. How much does it cost to file under Chapter 7? If a debtor is unable to pay the filing fee when the case is filed, it may be paid in installments, with the final installment due within days. The period for payment may later be extended to days by the court if a valid reason exists for doing so. Where is a Chapter 7 case filed? In the office of the clerk of the Bankruptcy Court in the district where the debtor lived or maintained his or her principal place of business for the greatest portion of the last days. 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 collect from the non-filing spouse. May a husband and wife file jointly under Chapter 7? A husband and wife may file a joint petition under Chapter 7, using the same set of forms. Also, only one filing fee is charged for a joint case. When is the best time to file under Chapter 7? The debtor should follow these rules: It is not wise for a debtor to file under Chapter 7 if it is anticipated that substantial additional debts will be incurred in the near future, because it will be another eight years before the debtor is again eligible for a Chapter 7 discharge. If a debtor is due to receive an income tax refund or other asset that is not exempt, the debtor should not file under Chapter 7 until after the refund or asset has been received and disposed of. If the debtor files under Chapter 7 before the refund or asset has been received and disposed of, he will lose the nonexempt portion of the refund or asset because it will later have to be turned over to the trustee in the Chapter 7 case. All nonexempt property or money acquired by a debtor through inheritance, life insurance, or a divorce within days after the filing of a Chapter 7 case becomes the property of the trustee in the Chapter 7 case. Therefore, if a debtor anticipates acquiring any money or property through any of these means within the next days, he should not file under Chapter 7 at this time. 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 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 order 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 or earned by the debtor after the case was filed. 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. Will a person lose all of his property if he files under Chapter 7? A debtor is allowed to keep his unmortgaged exempt property in a Chapter 7 case and must turn only his nonexempt property over to the trustee in the case. When must a person go to court in a Chapter 7 case and what happens there? In many Chapter 7 cases, no creditors appear in court; however, if a creditor does make an appearance, he or she will be allowed to question the debtor. What happens after the meeting of creditors? After the meeting of creditors, the trustee may contact the debtor regarding the collection or existence of nonexempt property and the court may issue orders to the debtor. These orders may require the debtor to turn certain property over to the trustee or provide the trustee with certain information. What is a trustee in a Chapter 7 case, and what does he do? 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 or her in the case. A trustee is appointed in a Chapter 7 case even if the debtor has no property for the trustee to collect. If the debtor does not cooperate with the trustee, then the case may be dismissed and the debts may not be discharged. What happens to the property that the debtor turns over to the trustee? It is usually converted into cash, which is later used to pay the administrative expenses of the trustee and to pay the claims of creditors. The trustee is permitted to pay himself a fee, which is based on a percentage of the amount collected from the debtor. What happens if the debtor has no nonexempt property for the trustee to collect? A trustee will be appointed, however, even if the debtor has no nonexempt assets for the trustee to collect, and the debtor must cooperate with the trustee. A creditor must prove the validity of the mortgage and obtain a court order, however, before repossessing or foreclosing of 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. What do unsecured creditors do in a Chapter 7 case? If the debtor has nonexempt assets, 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 are deemed improper. 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 nonexempt assets, the creditors are notified not to file claims. May the debtor keep any of his mortgage property in a Chapter 7 case without paying off the creditor? A debtor may retain certain mortgaged personal and household items, such as household furniture, appliances and goods, wearing apparel, and tools of trade, without paying the creditor anything if the items are exempt and if the mortgage against the property is not a purchase-money mortgage. A debtor may also retain exempt property that is subject only to a judgment lien without paying the creditor anything. A debtor may retain certain exempt personal, family, or household items by paying to the creditor only an amount equal to the value of the items, regardless of how much is owed to the creditor. How is a debtor notified that his discharge has been granted? Most courts send a form called Discharge of Debtor to the debtor and to all creditors. It is usually mailed about four months after the case is filed, unless the trustee or a 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. What if a debtor wishes to repay one or more of his discharged debts after filing under Chapter 7? A debtor may repay as many of his discharged debts as he wishes after filing under Chapter 7. The only discharged debts that a debtor is legally obligated to repay after filing under Chapter 7 are those for which the debtor and the creditor have entered into a reaffirmation agreement that meets with certain requirements of the bankruptcy laws. Unless a debt is covered by a valid reaffirmation agreement, a debtor is not legally obligated to repay or continue repaying any discharged debt, even if the debtor has made one or more payments on the debt since filing under Chapter 7, has agreed in writing to repay the debt, or has waived the discharge of the debt. 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. What should a person do if a creditor later attempts 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, they may be held in contempt of court and fined; and it may be liable for damages to the debtor. If a creditor later attempts to collect a discharged debt, the debtor should give the creditor a copy of the order of discharge and inform it that the debt has been discharged under Chapter 7. Does a Chapter 7 discharge affect the liability of other parties? 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 this rule is in community property states where the spouse of a debtor may also be released from certain community debts. What is the role of the attorney for a consumer debtor in a Chapter 7 case? Advise the debtor of the relief available under both Chapter 7 and Chapter 13 of the bankruptcy laws, and the advisability of proceeding under each chapter. Assemble the information and data necessary to prepare the Chapter 7 forms for filing. Prepare the petitions, schedules, statements and other Chapter 7 forms for filing with the bankruptcy court. Assist the debtor in arranging assets so that he or she can retain as much of them as possible after the Chapter 7 case. Filing the Chapter 7 petition, schedules, statements and other forms with the bankruptcy court, and, if necessary, notifying certain creditors of the commencement of the case. If necessary, assisting the debtor in redeeming certain personal property and in setting aside certain mortgages or liens against exempt property. Attending the meeting of creditors with the debtor. 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. If necessary, attending the discharge and reaffirmation hearing with the debtor and assisting the debtor in reaffirming certain debts and in overcoming obstacles to the granting of the Chapter 7 discharge. The fee paid, or agreed to be paid, to an attorney representing the debtor in a Chapter 7 case must be disclosed to the bankruptcy court. The court will allow the attorney to charge only a reasonable fee for representing the debtor.

4: Chapter 7 Bankruptcy – Who Can't File? | www.enganchecubano.com

In Chapter 7 bankruptcy, the bankruptcy trustee cancels many (or all) of your debts. At the same time, the trustee might also sell (liquidate) some of your property to repay your creditors. Chapter 7 bankruptcy, also called "straight" or "liquidation" bankruptcy, is so named because the law is.

Alternatives to Chapter 7 Debtors should be aware that there are several alternatives to chapter 7 relief. For example, debtors who are engaged in business, including corporations, partnerships, and sole proprietorships, may prefer to remain in business and avoid liquidation. Such debtors should consider filing a petition under chapter 11 of the Bankruptcy Code. Under chapter 11, the debtor may seek an adjustment of debts, either by reducing the debt or by extending the time for repayment, or may seek a more comprehensive reorganization. Sole proprietorships may also be eligible for relief under chapter 13 of the Bankruptcy Code. In addition, individual debtors who have regular income may seek an adjustment of debts under chapter 13 of the Bankruptcy Code. A particular advantage of chapter 13 is that it provides individual debtors with an opportunity to save their homes from foreclosure by allowing them to "catch up" past due payments through a payment plan. Moreover, the court may dismiss a chapter 7 case filed by an individual whose debts are primarily consumer rather than business debts if the court finds that the granting of relief would be an abuse of chapter 7. Debtors should also be aware that out-of-court agreements with creditors or debt counseling services may provide an alternative to a bankruptcy filing. Background A chapter 7 bankruptcy case does not involve the filing of a plan of repayment as in chapter 11. Accordingly, potential debtors should realize that the filing of a petition under chapter 7 may result in the loss of property. Chapter 7 Eligibility To qualify for relief under chapter 7 of the Bankruptcy Code, the debtor may be an individual, a partnership, or a corporation or other business entity. In addition, no individual may be a debtor under chapter 7 or any chapter of the Bankruptcy Code unless he or she has, within days before filing, received credit counseling from an approved credit counseling agency either in an individual or group briefing. There are exceptions in emergency situations or where the U.S. Trustee determines that a debt management plan is developed during required credit counseling, it must be filed with the court. One of the primary purposes of bankruptcy is to discharge certain debts to give an honest individual debtor a "fresh start. In a chapter 7 case, however, a discharge is only available to individual debtors, not to partnerships or corporations. Although an individual chapter 7 case usually results in a discharge of debts, the right to a discharge is not absolute, and some types of debts are not discharged. Moreover, a bankruptcy discharge does not extinguish a lien on property. How Chapter 7 Works A chapter 7 case begins with the debtor filing a petition with the bankruptcy court serving the area where the individual lives or where the business debtor is organized or has its principal place of business or principal assets. Debtors must also provide the assigned case trustee with a copy of the tax return or transcripts for the most recent tax year as well as tax returns filed during the case including tax returns for prior years that had not been filed when the case began. Individual debtors with primarily consumer debts have additional document filing requirements. A husband and wife may file a joint petition or individual petitions. Even if filing jointly, a husband and wife are subject to all the document filing requirements of individual debtors. The Official Forms may be purchased at legal stationery stores or download. They are not available from the court. Normally, the fees must be paid to the clerk of the court upon filing. The number of installments is limited to four, and the debtor must make the final installment no later than 30 days after filing the petition. For cause shown, the court may extend the time of any installment, provided that the last installment is paid not later than 30 days after filing the petition. If a joint petition is filed, only one filing fee, one administrative fee, and one trustee surcharge are charged. Debtors should be aware that failure to pay these fees may result in dismissal of the case. In order to complete the Official Bankruptcy Forms that make up the petition, statement of financial affairs, and schedules, the debtor must provide the following information: Married individuals must gather this information for their spouse regardless of whether they are filing a joint petition, separate individual petitions, or even if only one spouse is filing. Among the schedules that an individual debtor will file is a schedule of "exempt" property. Many states have taken advantage of a provision in the Bankruptcy Code that permits each

state to adopt its own exemption law in place of the federal exemptions. In other jurisdictions, the individual debtor has the option of choosing between a federal package of exemptions or the exemptions available under state law. Thus, whether certain property is exempt and may be kept by the debtor is often a question of state law. The debtor should consult an attorney to determine the exemptions available in the state where the debtor lives. But filing the petition does not stay certain types of actions listed under 11 U.S.C. The stay arises by operation of law and requires no judicial action. As long as the stay is in effect, creditors generally may not initiate or continue lawsuits, wage garnishments, or even telephone calls demanding payments. The bankruptcy clerk gives notice of the bankruptcy case to all creditors whose names and addresses are provided by the debtor. Between 21 and 40 days after the petition is filed, the case trustee described below will hold a meeting of creditors. During this meeting, the trustee puts the debtor under oath, and both the trustee and creditors may ask questions. It is important for the debtor to cooperate with the trustee and to provide any financial records or documents that the trustee requests. The Bankruptcy Code requires the trustee to ask the debtor questions at the meeting of creditors to ensure that the debtor is aware of the potential consequences of seeking a discharge in bankruptcy such as the effect on credit history, the ability to file a petition under a different chapter, the effect of receiving a discharge, and the effect of reaffirming a debt. Some trustees provide written information on these topics at or before the meeting to ensure that the debtor is aware of this information. In order to preserve their independent judgment, bankruptcy judges are prohibited from attending the meeting of creditors. In order to accord the debtor complete relief, the Bankruptcy Code allows the debtor to convert a chapter 7 case to a case under chapter 11, 12, or 13 as long as the debtor is eligible to be a debtor under the new chapter. Thus, the debtor will not be permitted to convert the case repeatedly from one chapter to another.

Role of the Case Trustee When a chapter 7 petition is filed, the U.S. Most chapter 7 cases involving individual debtors are no asset cases. But if the case appears to be an "asset" case at the outset, unsecured creditors must file their claims with the court within 90 days after the first date set for the meeting of creditors. A governmental unit, however, has 180 days from the date the case is filed to file a claim. In the typical no asset chapter 7 case, there is no need for creditors to file proofs of claim because there will be no distribution. If the trustee later recovers assets for distribution to unsecured creditors, the Bankruptcy Court will provide notice to creditors and will allow additional time to file proofs of claim. Although a secured creditor does not need to file a proof of claim in a chapter 7 case to preserve its security interest or lien, there may be other reasons to file a claim. Commencement of a bankruptcy case creates an "estate. It consists of all legal or equitable interests of the debtor in property as of the commencement of the case, including property owned or held by another person if the debtor has an interest in the property. In addition, if the debtor is a business, the bankruptcy court may authorize the trustee to operate the business for a limited period of time, if such operation will benefit creditors and enhance the liquidation of the estate. Section 541 of the Bankruptcy Code governs the distribution of the property of the estate. The debtor is only paid if all other classes of claims have been paid in full. The Chapter 7 Discharge A discharge releases individual debtors from personal liability for most debts and prevents the creditors owed those debts from taking any collection actions against the debtor. Because a chapter 7 discharge is subject to many exceptions, debtors should consult competent legal counsel before filing to discuss the scope of the discharge. Generally, excluding cases that are dismissed or converted, individual debtors receive a discharge in more than 99 percent of chapter 7 cases. In most cases, unless a party in interest files a complaint objecting to the discharge or a motion to extend the time to object, the bankruptcy court will issue a discharge order relatively early in the case – generally, 60 to 90 days after the date first set for the meeting of creditors. The grounds for denying an individual debtor a discharge in a chapter 7 case are narrow and are construed against the moving party. Among other reasons, the court may deny the debtor a discharge if it finds that the debtor: Secured creditors may retain some rights to seize property securing an underlying debt even after a discharge is granted. Depending on individual circumstances, if a debtor wishes to keep certain secured property such as an automobile, he or she may decide to "reaffirm" the debt. A reaffirmation is an agreement between the debtor and the creditor that the debtor will remain liable and will pay all or a portion of the money owed, even though the debt would otherwise be discharged in the bankruptcy. In return, the creditor promises that it will not repossess or take back the automobile or other

property so long as the debtor continues to pay the debt. If the debtor decides to reaffirm a debt, he or she must do so before the discharge is entered. The debtor must sign a written reaffirmation agreement and file it with the court. The Bankruptcy Code requires that reaffirmation agreements contain an extensive set of disclosures described in 11 U.S.C. § 541. The disclosures also require the debtor to sign and file a statement of his or her current income and expenses which shows that the balance of income paying expenses is sufficient to pay the reaffirmed debt. If the balance is not enough to pay the debt to be reaffirmed, there is a presumption of undue hardship, and the court may decide not to approve the reaffirmation agreement. Unless the debtor is represented by an attorney, the bankruptcy judge must approve the reaffirmation agreement. If the debtor was represented by an attorney in connection with the reaffirmation agreement, the attorney must certify in writing that he or she advised the debtor of the legal effect and consequences of the agreement, including a default under the agreement. The Bankruptcy Code requires a reaffirmation hearing if the debtor has not been represented by an attorney during the negotiating of the agreement, or if the court disapproves the reaffirmation agreement. The debtor may repay any debt voluntarily, however, whether or not a reaffirmation agreement exists. An individual receives a discharge for most of his or her debts in a chapter 7 bankruptcy case. A creditor may no longer initiate or continue any legal or other action against the debtor to collect a discharged debt. The debtor will continue to be liable for these types of debts to the extent that they are not paid in the chapter 7 case. Debts for money or property obtained by false pretenses, debts for fraud or defalcation while acting in a fiduciary capacity, and debts for willful and malicious injury by the debtor to another entity or to the property of another entity will be discharged unless a creditor timely files and prevails in an action to have such debts declared nondischargeable. The court may revoke a chapter 7 discharge on the request of the trustee, a creditor, or the U.S. Trustee. To determine whether a presumption of abuse arises, all individual debtors with primarily consumer debts who file a chapter 7 case must complete Official Bankruptcy Form B22A, entitled "Statement of Current Monthly Income and Means Test Calculation - For Use in Chapter 7. An involuntary chapter 7 case may be commenced under certain circumstances by a petition filed by creditors holding claims against the debtor. Each debtor in a joint case both husband and wife can claim exemptions under the federal bankruptcy laws. In North Carolina and Alabama, bankruptcy administrators perform similar functions that U.S. Trustee. These duties include establishing a panel of private trustees to serve as trustees in chapter 7 cases and supervising the administration of cases and trustees in cases under chapters 7, 11, 12, and 13 of the Bankruptcy Code. The bankruptcy administrator program is administered by the Administrative Office of the United States Courts, while the U.S. Trustee. For purposes of this publication, references to U.S. Trustee. A fee is charged for converting, on request of the debtor, a case under chapter 7 to a case under chapter 11. The fee charged is the difference between the filing fee for a chapter 7 and the filing fee for a chapter 11. There is no fee for converting from chapter 7 to chapter 11.

5: Chapter 7 Bankruptcy for a Family of Four

The Chapter 7 means test involves comparing your income to a family the same size as yours in your state. If your income falls below the median amount, you can usually file for Chapter 7 bankruptcy. If your income falls below the median amount, you can usually file for Chapter 7 bankruptcy.

For businesses[edit] When a troubled business is unable to pay its creditors, it may file or be forced by its creditors to file for bankruptcy in a federal court under Chapter 7. A Chapter 7 filing means that the business ceases operations unless those operations are continued by the Chapter 7 Trustee. The Trustee generally liquidates the assets and distributes the proceeds to the creditors. When a large company enters Chapter 7 bankruptcy, entire divisions of the company may be sold intact to other companies during the liquidation. The investors who took the least amount of risk prior to the bankruptcy are generally paid first. For example, secured creditors will have taken less risk, because the credit that they will have extended is usually backed by collateral, such as assets of the debtor company. Secured creditors often know they will get paid first if the company declares bankruptcy. A creditor is fully secured if the value of the collateral for its loan to the debtor equals or exceeds the amount of the debt. For this reason, however, fully secured creditors are not entitled to participate in any distribution of liquidated assets that the bankruptcy trustee might make. In a Chapter 7 case, a corporation or partnership does not receive a bankruptcy discharge. An individual can receive a Chapter 7 discharge see 11 U. Once all assets of the corporate or partnership debtor have been fully administered, the case is closed. The debts of the corporation or partnership theoretically continue to exist until applicable statutory periods of limitations expire. For individuals[edit] Individuals who reside, have a place of business, or own property in the United States may file for bankruptcy in a federal court under Chapter 7 "straight bankruptcy", or liquidation. Most liens, however such as real estate mortgages and security interests for car loans, survive. The value of property that can be claimed as exempt varies from state to state. Other assets, if any, are sold liquidated by the trustee to repay creditors. Many types of unsecured debt are legally discharged by the bankruptcy proceeding, but there are various types of debt that are not discharged in a Chapter 7. Spousal support is likewise not covered by a bankruptcy filing, nor are property settlements through divorce. Despite their potential non-dischargeability, all debts must be listed on bankruptcy schedules. This may make credit less available or may make lending terms less favorable, although high debt can have the same effect. Consumer credit and creditworthiness is a complex subject, however. Future ability to obtain credit is dependent on multiple factors and difficult to predict. Another aspect to consider is whether the debtor can avoid a challenge by the United States Trustee to his or her Chapter 7 filing as abusive. One factor in considering whether the U. If so, then the U. Trustee may succeed in preventing the debtor from receiving a discharge under Chapter 7, effectively forcing the debtor into Chapter Some bankruptcy practitioners[who? Trustee has become more aggressive in recent times in pursuing what the U. Trustee believes to be abusive Chapter 7 filings. Through these activities the U. Trustee has achieved a regulatory system that Congress and most creditor-friendly commentators have consistently espoused, i. Bankruptcy Code that include, along with many other reforms, language imposing a means test for Chapter 7 cases. Creditworthiness and the likelihood of receiving a Chapter 7 discharge are some of the issues to be considered in determining whether to file bankruptcy. The importance of the effects of bankruptcy on creditworthiness is sometimes overemphasized[by whom? Also, new credit extended post-petition is not covered by the discharge, so creditors may offer new credit to the newly-bankrupt. Methods of filing for bankruptcy[edit] Federal bankruptcy forms[edit] Functionally, templates are more or less the computer based equivalent of paper bankruptcy forms. The official Federal bankruptcy forms prescribed in the Federal Bankruptcy Rules come as Microsoft Word and Adobe Acrobat formatted templates where each bankruptcy form is represented by a Word or Acrobat file. While these forms are electronic in nature and reside on a computer, they do not contain intelligence that would guide the debtor. The debtor still has to fill in each bankruptcy form separately as they would with paper forms and the debtor still has to grapple with the complexity of bankruptcy law. Bankruptcy software[edit] In bankruptcy software, the debtor interacts with the software through a web page and is shielded from

the actual bankruptcy forms and from the intricacies of bankruptcy law. The debtor responds to questions in an interview setting, much like with tax programs such as TurboTax or automated documents made through HotDocs. The debtor enters names and addresses, a list of their creditors and assets and other financial information and the software generates all the court-ready forms and delivers them to the debtor via email or a download link. The accuracy of the forms is nevertheless imperfect, as it is difficult for software to ensure that the debtor understands what has to be disclosed, what the exemptions for their state are, whether they qualify for said exemptions, and whether expenses included on the means test are allowable. Non-attorney petition preparer[edit] An alternative to do-it-yourself is the bankruptcy petition preparer. This method appeals to those who cannot afford the higher cost of bankruptcy attorneys and at the same time do not want the hassle and uncertainty of self-prepared document templates and software. Bankruptcy petition preparers fill this need. The bankruptcy forms are prepared by trained individuals rather than by debtor themselves. However, having a preparer or paralegal prepare the petition does not guarantee compliance with all applicable laws, or assure that maximum advantage will be taken of exemptions. As with online bankruptcy software, debtors in some cases submit their bankruptcy information through a simple web page interface. Rather than having some software automatically generate the forms, trained paralegals use the information to prepare the document and then deliver them to the debtor. Bankruptcy trustees will check the bankruptcy petition to ensure that the petition was prepared properly, much like the trustee would do if a lawyer had prepared the forms. With expanded requirements of the BAPCPA bankruptcy act of , filing a personal chapter 7 bankruptcy is complicated. Many attorneys that used to practice bankruptcy in addition to their other fields, have stopped doing so due to the additional requirements, liability and work involved. After the petition is filed, the attorney can provide other services. This legislation was the biggest reform to the bankruptcy laws since The legislation was enacted after years of lobbying efforts by banks and lending institutions and was intended to prevent abuses of the bankruptcy laws. The changes to Chapter 7 were extensive. This test is referred to as the " means test ". If a presumption of abuse is found under the means test, it may only be rebutted in the case of "special circumstances. The inapplicability to non-consumer debt allows business debtors to "abuse" credit without repercussion unless the court finds "cause. However, the assumption of abuse is only rebutted where the additional expenses or adjustments for loss of income are significant enough to change the outcome of the means test. Otherwise, abuse is still presumed despite the "special circumstances. Theoretically, if the educational courses prove to be ineffective, the requirement may disappear. Lien avoidance[edit] Some types of liens may be avoided through a Chapter 7 bankruptcy case. Other changes[edit] Decreased the number and type of debts that could be discharged in bankruptcy. Decreased limits for discharge of debts incurred discharging luxury goods. Expanded the scope of student loans not dischargeable without undue hardship. Increase the time in which a debtor may have multiple discharges from 6 to 8 years. Limited the duration of the automatic stay, particularly for debtors who had filed within one year of a previous bankruptcy. Automatic stay may be extended at the discretion of the court.

Bankruptcy and the Family Collier Family Law and the Bankruptcy Code (). Chapter 1. An overview of the bankruptcy process as it bankruptcy Chapter 7. Lien.

The bankruptcy law was designed to ensure that Chapter 7 bankruptcy protection is given to those who need it most. The means test is the qualifying step for those looking to file Chapter 7. The Chapter 7 means test is actually a formula that is used in determining whether or not an individual would have enough money available to make minimal payments to creditors in a Chapter 13 bankruptcy plan. In many cases, those who want to file Chapter 7 are able to do so. Before the law change, there were fewer restrictions on eligibility for those who wished to wipe out credit card debt, medical bills, and most personal loans through Chapter 7 bankruptcy regardless of their ability to repay their debts. Are you wondering if Chapter 7 is right for you? Talk to a bankruptcy lawyer about your eligibility to file bankruptcy under Chapter 7 or Median Income Comparison The first step in the Chapter 7 bankruptcy means test is simple: The median income for your family size may differ dramatically depending upon where you live, and an attorney can tell you whether you are above or below the applicable median income. Check out our state median incomes table for more information. Calculating Disposable Income and Unsecured Debts The second step is a bit more complicated, and actually breaks down into separate pieces. Certain allowable expenses determined by IRS guidelines are subtracted from your income to find your "disposable income. If you can demonstrate special circumstances, you may still be allowed to do so. This calculation compares your disposable income over the next five years to a percentage of your unsecured debt to determine whether any significant repayment to your creditors is possible. If your disposable income over a five year period is less than 25 percent of your unsecured, non-priority debts, you will likely "pass" the means test. The calculation can be complicated, not only because of the numerous steps that may be involved, but because it requires an understanding of the rules concerning how your income is calculated for means test purposes and which debts are classified as unsecured and non-priority. Many people who want to file for Chapter 7 bankruptcy find that they are still eligible to do so. A local bankruptcy attorney can help you determine how the means test may affect your bankruptcy options. For more information on the Chapter 7 means test and the role it plays when filing bankruptcy, connect with a local bankruptcy lawyer. Please remember that while millions of Americans have filed for bankruptcy, each case is different. A local attorney can help you determine if you may qualify for Chapter 7, if Chapter 13 could be a better option, or if some other debt relief action may be better for you. Fill out the above form today. The above summary is not legal advice. Laws may have changed since our last update. For the latest information on bankruptcy laws, speak to a local bankruptcy lawyer in your state.

7: Illinois Bankruptcy Means Test “ Chapter 7?

The Chapter 7 Means Test Calculator has been updated for the latest median income figures for cases filed on or after April 1, This is your state's monthly median family income for your family size.

How to File for Chapter 13 Bankruptcy Chapter 11 and Chapter 12 Chapter 11 and Chapter 12 are similar to the Chapter 13 repayment bankruptcy, but designed for specific debtors. Chapter 11 bankruptcy is another form of reorganization bankruptcy that is most often used by large businesses and corporations. Individuals can use Chapter 11 too, but it rarely makes sense for them to do so. Chapter 12 bankruptcy is designed for farmers and fisherman. Chapter 12 repayment plans can be more flexible those in Chapter In addition, Chapter 12 has higher debt limits and more options for lien stripping and cramdowns on unsecured portions of secured loans. Choosing the Right Type of Bankruptcy In many cases, the type of bankruptcy filed will be contingent on two things: Your income and your assets. Your income is important because it may preclude you from filing a simple Chapter 7 case, and your assets are important because if you have nonexempt property, you might lose it in Chapter 7, but can protect it in Chapter Here are a few scenarios that explore which bankruptcy strategy would be best: Unemployed Debtors with Few Assets “ Chapter 7 Loss of income combined with a large amount of debt is the number one reason people file for bankruptcy. Compounding factors like divorce, medical emergencies, or the death of a family member are also common. Assume that in this scenario the debtor has no income other than unemployment benefits, does not own a home, and has one car with a loan against it. Unemployed Homeowners “ Upside-Down Mortgage “ Chapter 7 Homeowners who are experiencing a loss of income also have options under bankruptcy law. For those homeowners whose property value has fallen below the value of the loan against it, Chapter 7 is probably still the best option. Since the value of the home is less than the value of the lien against it, the homeowner has no equity in the bankruptcy estate, so the house is protected from liquidation. A Chapter 7 bankruptcy can quickly relieve them of their obligations to repay unsecured debts, making monthly bills much more manageable. Unemployed Homeowners “ Significant Equity “ Chapter 7 or 13 If a homeowner has a significant amount of equity in property, then Chapter 7 may or may not be the best option. The homeowner can keep the home in Chapter 13 bankruptcy if he or she keeps current on the mortgage. Keep in mind though, there must be enough income available from the petitioning household to fund a repayment plan. Employed Homeowners Facing Mortgage Delinquency or Foreclosure “ Chapter 13 For homeowners who have fallen behind on mortgage payments, Chapter 13 offers a way to catch up or "cure" past due mortgage payments while simultaneously eliminating some portion of dischargeable debt. This means they can save the home from foreclosure and get rid of a lot of credit card debt, medical debt, and possibly even second and third mortgages or HELOCs. Chapter 7 bankruptcy does not provide a way for homeowners to make up mortgage arrears. Wealthy Petitioners with a Large Amount of Debt - Chapter 11 Very wealthy debtors often need to file under Chapter 11 due to the debt and income limits of Chapter 7 and Chapter 13 bankruptcies.

8: Chapter 7 - Bankruptcy Basics | United States Courts

This is an Official Bankruptcy Form. Official Bankruptcy Forms are approved by the Judicial Conference and must be used under Bankruptcy Rule

9: A Chapter 7 Bankruptcy Overview | www.enganchecubano.com

CONS: PROS: Bankruptcy will ruin your credit for some time to come. A Chapter 7 bankruptcy can remain on your credit report for up to 10 years.: Although a bankruptcy stays on your record for years, the time to complete the bankruptcy process under Chapter 7, from filing to relief from debt, takes only about months.

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