

**Q: What's bankruptcy?**

- **A:** Bankruptcy allows individuals or businesses (debtors) who owe others (creditors) more money than they're able to pay to either work out a plan to repay the money over time or completely eliminate (discharge) most of the bills.

**Q: What's the difference between secured and unsecured debt?**

- **A:** Secured debt is a claim that's secured by some type of property, either by an agreement or involuntarily with a court judgment or taxes. Creditors can generally claim the property (and take it to pay off the debt) in the event of bankruptcy. Unsecured debt is not tied to any type of property, and the creditor can't claim it if you file for bankruptcy. A mortgage is a secured debt on your property.
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**Q: Which Bankruptcy type or chapter should I file?**

- **A:** Consumers typically file **Chapter 13** bankruptcy, where repayment is made to creditors, or **Chapter 7** where the debts are dismissed. Each chapter of bankruptcy spells out:
  - What bills can be eliminated
  - How long payments can be stretched out
  - What possessions you can keep
  - Additional information

The type depends on your circumstances and if you have assets available to repay all or part of your debts. Bankruptcy laws can be tricky and involved, so determining if, when and which type of bankruptcy you need should be made with careful thought or the input of a bankruptcy lawyer.

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**Q: Can I change from one chapter of bankruptcy to another?**

- **A:** Generally, you can convert a case one time to any other chapter you're eligible for. The request to convert can be a simple one-sentence document. Watch out for pitfalls, though. For instance, if you move from Chapter 13 to a Chapter 7, some of your possessions may be part of the Chapter 7 estate (and can be taken and sold to pay your debts), even though they were safe from creditors under Chapter 13.

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**Q: Who can file bankruptcy?**

- **A:** With few exceptions, any person or business owing money to a creditor can file a bankruptcy petition.

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**Q: How often can you file for bankruptcy?**

- **A:** Filing bankruptcy can adversely affect your ability to obtain future credit, rent housing and even negatively impact a job application. Any decision to file must be carefully considered.
  - **Chapter 7** – can be filed every 8 years from a previous Chapter 7 filing, or 6 years from a prior Chapter 13 filing.
  - **Chapter 13** - can be filed 4 years from a prior Chapter 7 filing, or 2 years from a prior Chapter 13 filing.

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**Q: What do I need to begin the bankruptcy process?**

- **A:** Compile a list of past and present debts as well as a schedule, or list, of assets and liabilities. You'll also need a statement of financial affairs to file with the bankruptcy court in addition to your [filing fee](#).

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**Q: Do you have to have a certain amount of debt to file?**

- **A:** No. However, some situations may not warrant filing for bankruptcy. If your financial situation is temporary, you may consider making arrangements with individual creditors for a change in payment amounts or a reduction in the total amount due. If you have little property or money, filing bankruptcy may not be necessary, as the creditor may not be able to collect the debt.

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**Q: What's a joint petition?**

- **A:** A joint petition is when an individual and a spouse file a single petition. Unmarried partners must each file a separate case.

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**Q: What happens if one spouse files for bankruptcy and not the other?**

- **A:** If one spouse files and the other doesn't, the one who doesn't file could be responsible for the debts. Review this carefully before filing.

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**Q: Does my divorce decree protect me from creditors if my ex files for bankruptcy?**

- **A:** No. If you're a co-signor with your ex-spouse on a debt acquired while married, the creditor can require the entire payment of that debt from you even though the divorce decree assigns the full debt to your ex-spouse. Your divorce decree may address any recourse you may have against your ex-spouse should he default on the loan obligations.

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**Q: Can a loan co signor be responsible for a debt if the other person declares bankruptcy?**

- **A:** Yes. The lender can require the co-signor to make payments on a loan once the principal has declared bankruptcy on the credit. This makes it extremely important when considering co-signing a loan: Be ready, and able, to pay the loan in the event that the principal signor defaults.

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**Q: Can all types of debt be discharged?**

- **A:** No. The debts that can't be discharged vary slightly between the different chapters of bankruptcy. Generally, the following cannot be discharged:
  - Debts for taxes owed to local, state or federal agencies
  - Debts for money, property, services, or an extension, renewal, or refinancing of credit, which was obtained fraudulently
  - Debts that weren't in the initial list of debts or that the debtor waived being cancelled
  - Debts owed to a spouse, former spouse, or child, for alimony, maintenance, or support of a spouse or child, with a separation agreement, divorce decree or other order of a court of record
  - Debts owed for injury to another person or property owned by another (as in a court judgment)
  - Debts for government-sponsored educational loans, unless it can be shown that repayment will cause an undue hardship
  - Debts for death or personal injury caused by the debtor's drunk driving or from driving while under the influence of drugs or other substances (as in a court judgment)
  - Debts incurred after a bankruptcy was filed
  - Any type of legal judgment

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**Q: What can I keep, if anything, if I file bankruptcy?**

- **A:** Exemptions allow an individual to "exempt", or keep, certain kinds of property. State law defines what assets are considered "exempt," but typically include:
  - Jewelry

- Vehicles up to a certain amount
- Equity in a home up to a certain amount
- “Tools of the trade” or tools and equipment necessary to allow the individual to continue working

**Q: Do I have to file bankruptcy on all the accounts I owe, or can I keep some?**

- **A:** You must include all the debts you owe in your petition and schedules. You may opt to keep some debts by “reaffirming” the specific debt.
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**Q: Will I lose my retirement accounts or payments from social security?**

- **A:** Generally, no. Retirement accounts that are **ERISA-qualified** aren’t considered property of an estate and aren’t taken into consideration as assets. Social Security benefits are protected from assignment, or garnishment for debts in bankruptcy. Once paid, the benefits continue to be protected only as long as they can be identified as Social Security benefits. For example, money in a bank account where the “only” deposits into the account are direct deposits of Social Security benefits are identifiable and generally protected.
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**Q: Will I lose my home if I file for bankruptcy?**

- **A:** There are many factors that impact the ability to keep your home, including:
    - The state you’re in and the exemptions allowed
    - The status of your loan (current or in foreclosure)
    - The type of bankruptcy you’re filing (Chapter 13 provides more protection than Chapter 7 as long as payments are current)
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**Q: How long does a bankruptcy stay on my record?**

- **A:** Bankruptcies remain on credit reports anywhere from 7 up to 10 years.
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**Q: Can I do anything to remove a bankruptcy from my credit report?**

- **A:** No. Although at your option, you can file an explanation with the credit reporting agencies briefly describing the events resulting in your bankruptcy. If an account is reported inaccurately, you can request the record be updated to reflect the actual situation.

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**Q: When can I apply for credit again?**

- **A:** The decision whether to grant you credit in the future is strictly up to the creditor and varies from creditor to creditor. There's no law that prevents anyone from extending credit to you immediately after the filing of a bankruptcy, but creditors aren't required to extend you credit.

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**Q: Can a "credit repair" company really save me from bankruptcy?**

- **A:** Most consumers can be just as effective as a credit repair company in dealing with credit reporting agencies and improving their credit ratings, it simply takes time and patience. While there are non-profit companies in each state that offer credit guidance for a small fee, credit repair companies offer very little relative to the fees they charge.

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**Q: Can a creditor continue to contact me after I've filed for bankruptcy?**

- **A:** During the time the debtor is working out a plan or the trustee is gathering and preparing the assets to sell, creditors are required by law to stop all collection efforts against you. As soon as the bankruptcy petition is stamped "Relief Ordered" upon filing, you're immediately protected from your creditors. This is called an **automatic stay**. After that time, if a creditor attempts to collect a debt, immediately notify the creditor in writing that you have filed bankruptcy, and provide them with either the case name number and filing date or a copy of the petition that shows it was filed. If the creditor still continues to collect, you may be entitled to take legal action against it.

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**Q: Who lets my creditors know I've filed for bankruptcy?**

- **A:** The bankruptcy court notifies, by mail, all creditors advising them of:
  - The filing of the bankruptcy
  - The case number
  - The automatic stay
  - The name of the trustee assigned to the case (if filed under chapters 7 or 13)
  - The date set for the meeting of creditors
  - The deadline, if any, set for filing objections to the dismissal of debts
  - Whether and where to file claimsThe exact information in the notice may be slightly different depending on the chapter under which the case is filed.

**Q: What does a trustee do?**

- **A:**The trustee's job is to:
    - Administer the bankruptcy
    - Make sure creditors get as much money as possible
    - Run the first meeting of creditors (also called the "section 341 meeting").
    - Collect and sell non-exempt property (in a chapter 7 case) or collect and pay out money on a repayment plan (in a chapter 13 case)
    - Obtain information from you and documents related to your bankruptcy**United States Trustees** are appointed by the bankruptcy court, but aren't necessarily lawyers. Their fees are covered by the bankruptcy filing fee or are a set percentage of the money distributed in the bankruptcy.
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**Q: Can creditors object to a bankruptcy filing or plan?**

- **A:** Yes. Bankruptcy filings allow creditors to object to specific debts in the plan or the repayment or cancellation in its entirety.
    - **Chapter 7:** Creditors generally have 60 days after the first creditors meeting to object to the discharge of a specific debt. If no objections are filed, the court issues the discharge order, the trustee collects and sells the assets and then distributes the proceeds to the creditors under a predetermined schedule. If there are objections, the bankruptcy proceedings, less the objected debt(s), continues. A trial may be necessary to resolve the objectionable issues.
    - **Chapter 13:** Creditors can object to the plan for repayment and the court may take this into consideration. If no objections are filed by creditors or the trustee, the plan may be confirmed as filed.
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**Q: What happens at a 341 meeting of creditors?**

- **A:** Once you declare bankruptcy you must attend the creditors' meeting conducted by the trustee appointed to their case. You must answer questions concerning:
  - How the situation evolved
    - Any actions taken with the property
    - Debts listed in the petition or any other financial information requested by the trustee
- Failure to answer truthfully can result in the petition being dismissed or, in extreme cases, a charge of **perjury**. Creditors may attend and question you about the assets or any other matter relevant to the bankruptcy. A creditor doesn't waive any rights by not attending the creditors' meeting.

## FAQs

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### **Q: Can I add a debt on my schedule if it was initially forgotten?**

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- **A:** After filing the petition, if you discover that an entry is inaccurate or missing, you may typically file an amendment to correct it. Remember, you're submitting the petition under the penalty of perjury, so take care with the initial filing. Also, any debt that isn't on the list can't be discharged and you'll be responsible for it.

### **Q: When should I stop using my credit cards if I'm planning on filing for bankruptcy?**

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- **A:** As soon as you anticipate filing bankruptcy, stop using your credit cards. Bankruptcy law allows the review of questionable purchases for potential fraud. If purchases are made 40 days prior to filing or cash advances taken within 20 days of filing, the debt may possibly be excluded from the bankruptcy and it can be dismissed.

### **Q: What's a reaffirmation agreement?**

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- **A:** Reaffirming a debt is voluntary and isn't required by bankruptcy codes. You may voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be other reasons for wanting to reaffirm a specific debt, such as a vehicle loan or student loan.

### **Q: Can a bankruptcy be reopened?**

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- **A:** Yes. Typically, a bankruptcy case is reopened by the trustee when questions arise concerning what was included or possibly omitted or any other irregularities that surface.

### **Q: How's an inheritance treated in a bankruptcy case?**

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- **A:** How an inheritance is treated in bankruptcy depends on when you become entitled to receive it and what type of bankruptcy relief you're seeking.
  - **Chapter 7** - if you become entitled to an inheritance within 180 days of your filing date, the inheritance will be a part of your bankruptcy estate, and can be used to pay your debts. The important date is when your right to the inheritance is fixed, which is typically on the date of a person's death. You might not receive property or money from someone's estate for many months.

## FAQs

- **Chapter 13** - your inheritance can be used in determining how much you have available to pay creditors under your repayment plan, and the 180-day limit doesn't apply.
- In either type of bankruptcy, you must inform the bankruptcy trustee about the inheritance. If you're thinking about filing for bankruptcy, ask a bankruptcy lawyer how an expected inheritance might factor into your plans.