

United States Bankruptcy Court
Eastern District of Missouri

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Clerk of the Court

Chapter 7

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This booklet contains general information about Chapter 7 of the U.S. Bankruptcy Code.

While this information is accurate as of the date of publication, it should not be cited or relied upon as legal authority. This information should supplement, not substitute for advice of competent legal counsel. The Bankruptcy Court, Chapter 7 Trustee and United States Trustee cannot give legal advice.

This pamphlet is available on the Court's website at http://www.moeb.uscourts.gov/file_info.htm and provides hyperlinks to additional resources referenced herein. (12/17)

Basic Information about Chapter 7 for Individuals

Summary. Chapter 7 bankruptcy is designed to provide a fresh start for individuals whose income is insufficient to pay their debts. Chapter 7 bankruptcy is commonly referred to as "straight bankruptcy" or "liquidation." In a Chapter 7 case, the debtor is permitted to exempt (or keep) certain property. An impartial trustee will liquidate, or sell, non-exempt property, and will use the proceeds to pay creditors. In exchange for surrendering the debtor's non-exempt assets, the debtor will receive a discharge from most debts.

Filing Chapter 7. A Chapter 7 case begins with the filing of a petition. Generally, the petition must be filed with the bankruptcy court located in the federal district where the debtor lives. A [filing fee](#) is due at the time of filing and must be paid electronically by an attorney or by cash, money order, or certified check from the debtor. With the court's permission, the fee may be paid in installments or may be waived for individuals whose income is below certain [poverty levels](#).

Along with the petition, the debtor must file bankruptcy schedules and statements, and many other required documents. (See [Filing Information and Information for Parties Without Attorneys](#)). Official Bankruptcy Forms can be purchased at an office supply store or may be downloaded from [U.S. Courts web site](#). Forms are NOT available at the court. Failure to timely file these documents may result in dismissal of the case.

Automatic Stay. In most instances, the filing of a bankruptcy petition automatically stays or stops certain collection and other actions against the debtor and the debtor's property. However, if the debtor had two prior cases

within the past year, the automatic stay will not be effective in the new case. If the debtor had one prior case, the stay will terminate 30 days after filing. As long as the stay is in effect, creditors generally may not continue lawsuits, garnishments, foreclosures, or make demand for payment. When a case is filed, the court sends notice of the filing to all creditors listed on the debtor's matrix. The notice advises of the automatic stay, contains various deadlines, including the date for the meeting of creditors, and provides other important information the debtor and creditors should read.

Meeting of Creditors. Every debtor (both spouses in a joint case) must attend a meeting of creditors. An impartial trustee is appointed to administer the case and will conduct the meeting of creditors, generally within 21 to 40 days of filing the petition. Prior to the meeting, the debtor must send the trustee copies of the debtor's most recent tax returns and pay stubs for 60 days prior to filing. (See [Panel Trustee Filing Requirements](#)) The trustee will review these documents along with the debtor's schedules to evaluate the case and determine if assets are sufficient to pay creditors. The purpose of the meeting is to allow the trustee and creditors to ask questions regarding the debtor's financial affairs. The debtor must answer all questions under oath and must also bring to the meeting other documents requested by the trustee. Failure to attend the meeting of creditors may result in dismissal of the case.

Property of the Estate & Exemptions. All property (real estate and personal property) in which the debtor has any interest on the date of filing becomes part of the bankruptcy estate. The estate also includes such interests as the

debtor's right to a tax refund, certain inheritances, and lawsuit proceeds the debtor might receive after the case is filed. Most Chapter 7 cases are "no asset" cases, meaning the value of the debtor's non-exempt property is insufficient for the trustee to pay creditors. Under state and federal law, the debtor can "exempt" (or keep) certain property from payment to creditors. If the debtor does not claim allowed exemptions, or there is sufficient value in the debtor's property even after exemptions, the case will be an "asset" case, and the trustee will sell the debtor's property to pay creditors. Creditors will be notified to file proofs of claim in an asset case.

Discharge. The goal of bankruptcy for a debtor is to receive a discharge or release from debts. The discharge extinguishes the debtor's obligation to pay most debts and prohibits collection of those debts after bankruptcy. A debtor is not eligible for a discharge if the debtor received a prior Chapter 7 discharge in a case filed within 8 years of the current case, or if the debtor does not attend a post-petition financial management course within 60 days of the first date set for the meeting of creditors. Unless a creditor or party files a complaint objecting to discharge (typically because the debtor is not eligible, did not disclose assets, or committed fraud in the case), the debtor will typically receive an order of discharge within 60 to 90 days after the meeting of creditors. Certain obligations, however, including most taxes, student loans, child support, and alimony are not dischargeable. Others debts, such as debts for fraud and intentional injuries, can be determined to be non-dischargeable.

Secured Debts & Reaffirmation. Although the discharge prohibits creditors from taking action against the debtor personally, most liens remain intact after bankruptcy, and a creditor may foreclose or repossess its collateral (typically a house or vehicle) after a bankruptcy case is closed. To retain collateral, the debtor must reach an agreement with the

creditor for payment. An agreement to repay is called a "reaffirmation agreement." A reaffirmation is enforceable only if it is voluntarily made before the discharge is entered and is filed with the court. The court must hold a hearing to approve a reaffirmation agreement unless an attorney for the debtor has signed the agreement. If the debtor fails to pay a reaffirmed debt, the creditor may recover its collateral and may collect the debt directly from the debtor as if the debtor had not filed bankruptcy.

Records & Credit Reports. Typically, a bankruptcy filing will remain on a credit report from 7 to 10 years. The court does not control what information is reported to credit reporting agencies and cannot assist in resolving problems with credit reports. The debtor should keep a copy of all documents in the case, particularly the schedules and discharge order, to assist in resolving future questions about the bankruptcy.

Chapter 7 Filing Requirements

(See [website](#) for a complete list and detailed instructions)

- 1) [Filing Fee](#) (or installment or fee waiver application)
- 2) Voluntary Petition
- 3) Schedules A – J, Summary of Schedules & Statistical Summary of Schedules w/ signed Declaration
- 4) Statement of Financial Affairs w/signed Declaration
- 5) Chapter 7 Debtor's Statement of Intention
- 6) Social Security Number Verification Form (B121 Form)
- 7) Attorney Compensation Disclosure Statement (if debtor has counsel)
- 8) Matrix & Verification of Creditor Matrix
- 9) Credit Counseling Certificate

- 10) Statement of Current Monthly Income, or Statement of Exemption from Presumption of Abuse, and/or the Means Test Form (B122A-1, A-1 Supp, and/or A-2 Form)

Items 1, 2, 6, 8, and 9 must be filed with the petition or the case will be dismissed.

Guideline for Creditor Matrix

(See [website](#) for detailed instructions)

The matrix (list of creditors) must be prepared as follows:

1. Type using standard typefaces (Courier) in 10-point font, justified left, single-spaced and in a single column. Type only on one side of the page. Do not use all capital letters.
2. Leave at least a one-inch margin at the top, bottom, and sides of the page.
3. Creditor names must have no more than 50 characters per line. All other address lines must have no more than 40 characters. Creditors must have at least one blank line between each entry.
4. Account numbers should not appear.

Sample Matrix:

Household Finance
P. O. Box 1000
Anytown, MO 66809

Mercy Hospital
1234 Center Ave.
Yourtown, MO 64102

The foregoing is very basic information. A Chapter 7 case can involve many other issues. The Bankruptcy Court, the Chapter 7 trustee, and the United States Trustee cannot give legal advice. Use of competent legal counsel is advised.