# Chapter 7 vs. Chapter 13

## **Bankruptcy**

"Chapter 7" and "Chapter 13" get their names from the portions of the U.S. Bankruptcy Code where they appear. There are several similarities among these chapters, which are both available to individuals and spouses filing jointly; however, many differences also exist between the two.



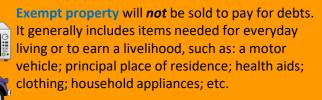
The information contained here is intended to give you a "crash course" on how to distinguish between these chapters. This information is *not* legal advice and you should consult an attorney to determine the chapter that is best for you.

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF MISSOURI



#### Ch. 7 Bankruptcy

- Most common type for individuals and for spouses filing jointly
- Generally best-suited for those who do not have steady income
  - Eligibility for discharge of debts is contingent upon having *not* received a discharge under Ch. 7 within the last 8 years
- Appears on your credit report for 10 years after filing
- Filing results in an automatic stay which prohibits asset repossession, utility cut-off, foreclosure (but not eviction), and continuance of debt collection efforts unless the creditor obtains court approval
- Typically requires sale of non-exempt property and transfer of proceeds to your case trustee who then pays creditors



Non-exempt property is not considered exempt and thus may need to be sold to pay creditors. It generally includes nonessential items such as: additional homes or vehicles; works of art; etc.

### Ch. 13 Bankruptcy

- Second most common type for individuals and spouses filing jointly
- Generally best-suited for those who have a stoody income.

#### have a steady income

- Eligibility for discharge of debts is contingent upon having not receive a discharge under a Ch. 13 petition filed within the last 2 years
- Appears on your credit report for 7 years after filing
  - Requires repayment of all debts, or a substantial portion thereof, based on a court-approved payment plan of 3-5 years
- Typically, a debtor eligible to file under Ch. 13 will be able to retain his or her property
  - For example, if you have a secured debt on an item (i.e. an outstanding balance owed on a piece of property, toward which you make payments in exchange for possession/use of the item), Ch. 13 allows you to continue making payments on the property to retain it.



- Both enable some or all your debts to be discharged (i.e. eliminated)
  - Note: For policy reasons, some debts cannot be discharged. These include, but are not limited to, child support, spousal support, certain tax payments, and criminal restitution payments.
- Eligibility to file under Ch. 7 & Ch. 13 is based upon the outcome of your "means test," which assesses whether you retain ample funds each month to repay creditors.
  - If you have sufficient disposable income to pay creditors, you may be ineligible to file under Ch. 7, but may still be eligible to file under Ch. 13.
  - Both require you to complete credit counseling before filing and a financial management course before discharge.