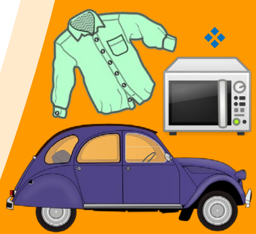
Chapter 7 vs. Chapter 13 Bankruptcy

"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.

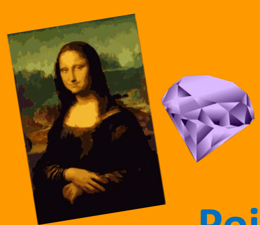
The information contained here is intended to give you a "crash course" on how to distinguish between these chapters. This information is ***not*** legal advice and you should consult an attorney to determine the chapter that is best for you.

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



- **Exempt property** will ***not*** be sold to pay for debts. It generally includes items needed for everyday living or to earn a livelihood, such as: a motor vehicle; principal place of residence; health aids; clothing; household appliances; etc.

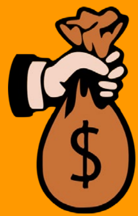


- **Non-exempt property** is not considered exempt and thus may need to be sold to pay creditors. It generally includes nonessential items such as: additional homes or vehicles; works of art; etc.

Ch. 13 Bankruptcy

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



Points applicable to BOTH Ch. 7 & Ch. 13 Filings

- 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.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI

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