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WHO MAY FILE BANKRUPTCY?

An individual may file bankruptcy, and a married couple may file a single, “joint” bankruptcy. A married person may also file an individual bankruptcy, if his or her spouse elects not to file (or is ineligible to file).

WHAT TYPE OF RELIEF IS AVAILABLE?

The two types of bankruptcy which are generally available to individual debtors are Chapter 7 (“Traditional” bankruptcy, or “liquidation,”) and Chapter 13 (“debt-payment plan”). A Chapter 7 bankruptcy allows you to discharge debts, which means that you are no longer legally responsible for them. A Chapter 13 case allows you to repay all or part of your debts under a 3 to 5 year plan in regular installments (usually monthly). In most cases, you will reduce your monthly debt payments. See our separate brochure, Chapter 7 or 13 Bankruptcy, for more information.

WHAT ARE THE ELIGIBILITY REQUIREMENTS?

Generally, you must have lived in your District for at least 91 days. Indiana has two Districts, Northern and Southern. You may receive a Chapter 7 discharge only once every eight years. Different rules apply to Chapter 13 cases. There are other, less common eligibility rules.

 WHERE IS THE BANKRUPTCY FILED?

Bankruptcy is filed in the federal Bankruptcy Court. The location depends on what county you live in. The Northern District of Indiana has courts located in Ft. Wayne, Gary, Lafayette, and South Bend. The Southern District of Indiana has courts located in Evansville, Indianapolis, New Albany and Terre Haute.

IS CREDIT COUNSELING REQUIRED?

Yes, you must take two court-approved counseling courses. The first is taken before you file your bankruptcy case, and the second is taken during the bankruptcy. These are offered online or by telephone, and each session usually lasts 1-2 hours. Your bankruptcy attorney will give you contact information for these courses. The total cost is usually $60 or less, and in some cases the fees can be reduced or waived.

WHAT HAPPENS WHEN THE BANKRUPTCY IS FILED?

Once a bankruptcy case is filed, all creditor collection must stop. Creditors may not call, write, bill, visit, repossess, foreclose, file a lawsuit, or continue with a lawsuit already in progress. Any court-ordered wage garnishments will also be stopped. After the case is filed, Creditors may resume collection only if granted permission by the Bankruptcy Court.

WHAT DEBTS MAY BE DISCHARGED IN CHAPTER 7?

In a Chapter 7 case, many debts can be discharged. Examples include:

* medical bills
* credit cards
* retail store accounts
* loans (including cash advance / payday loans)
* back-rent
* delinquent utility bills
* debts owed after repossession or foreclosure
* some debts owed to government
* most bank fees

WHAT DEBTS MAY NOT BE DISCHARGED?

There are some debts which cannot be discharged in bankruptcy. The most common “non-dischargeable” debts include:

* child support, maintenance or alimony
* some tax debts
* most student loans
* criminal fines and penalties
* injury or death caused by driving while intoxicated

There are other debts which may not be dischargeable, depending on the facts of the case, such as some debts or loans incurred just before bankruptcy, or cases in which the creditor proves fraud. Finally, there are other debts (such as mortgages, car payments or co-signed debts) in which it may be better to continue making payments. Your attorney will discuss your options with you.

WHAT ELSE CAN BANKRUPTCY ACCOMPLISH?

Depending on the circumstances of your case, filing bankruptcy may help you:

* Avoid repossession of your vehicle or other property
* Avoid foreclosure of your home
* Prevent utility disconnection
* Prevent eviction
* Resolve tax problems
* Restore drivers licenses which were suspended for failure to carry insurance
* Stop government offsets of Social Security or VA benefits
* Resolve legal disputes with creditors

An attorney can advise you whether bankruptcy can help you with these problems.

 DO I NEED A LAWYER TO FILE BANKRUPTCY?

Although not required by law, a lawyer is strongly recommended. People who try to file bankruptcy without a lawyer may do themselves more harm than good. There are “document-preparers” who will prepare bankruptcy schedule, but keep in mind, these persons are not allowed to give you legal advice. Court staff may not give you legal advice either.

WHAT DOCUMENTS DO I NEED?

Your attorney will give you a list of required documents. The list will include, among other things, your last 6 months’ pay or income information, your last year’s federal and state tax returns, your bills, a credit report, copies of mortgages or other loans, the deed to your home, and recent bank account statements.

WHAT DOES BANKRUPTCY COST?

Court filing fees are presently $335 for a Chapter 7 and $310 for a Chapter 13. These fees are subject to change at any time. There are additional fees for required credit counseling (usually $60 or less). If you meet eligibility guidelines, you may be allowed to waive the Chapter 7 fee.

If you hire a private attorney for a Chapter 7, attorney fees vary and are set by the attorney. The fees may depend on how complicated your case is. Some attorneys may require fees in advance of filing, while others may allow payment later (such as in installments, or when you receive your tax refund). Chapter 13 fees are usually higher – but they may be included in your payment plan, making them affordable to you.

Many attorneys do not charge fees for the first consultation. Make sure, however, you understand the attorney’s fees and arrangements.