

Comparing The Bankruptcy Types

Breaking down the requirements , costs, and characteristics of Chapter 7, Chapter 13 and Chapter 11 bankruptcy

Bankruptcy Type	Chapter 7 <i>A Liquidation Strategy</i>	Chapter 13 <i>A debt Restructuring & Consolidation Strategy</i>	Chapter 11 <i>A Reorganization Strategy, OR, A Liquidation Strategy</i>
<p>What's it for? In simple and broad terms</p>	<p>The goal in filing under Chapter 7 is to have your <i>debts "discharged" (cancelled) and, within limits, to hold onto your most essential property – "exempt property" -</i> such as your home, car, and personal property.</p> <p>This is accomplished by <i>surrendering all of your "non-exempt" property to a Court-appointed Trustee</i> who will sell it and pay off as much of your debt as possible. What cannot be paid off will be discharged.</p>	<p>The goal in filing under Chapter 13 is to have your <i>debts restructured and consolidated so that they can be repaid over 3 to 5 years; without having to surrender your property.</i></p> <p>This is accomplished through a Court-approved Repayment Plan.</p> <p>Some of your debts may be reduced or possibly discharged as well.</p>	<p>For Businesses:</p> <p>The goal in filing under Chapter 11 is to continue operating while it negotiates a Plan of Reorganization which, among other things, provides for the repayment its creditors over a period of time.</p> <p>For Individuals:</p> <p>Chapter 11 is primarily used by a debtor who would otherwise qualify to file under Chapter 13; but whose debts exceed the limits allowed to file under Chapter 13, OR to negotiate a Plan of Reorganization longer than the 5-year maximum imposed under Chapter 13.</p> <p>For All Filers, Chapter 11 can also be used as a Liquidation strategy:</p> <p>Unlike Chapter 7, Chapter 11 allows a business or individual to hold onto and use their property while they prepare a plan for a more orderly liquidation. The result is that business property may be sold at a higher "going-concern" value, rather than "auctioned" as it would be</p>

			under Chapter 7. Similarly, personal property may not have to be sold at a discounted price under a “forced or distress sale” auction sale.
<p>Who’s it for?</p> <p>Subject to qualification and eligibility requirements</p>	<ul style="list-style-type: none"> • Individuals • Sole Proprietors • For reasons explained below, Chapter 7 is <i>generally not a good choice</i> for Partnerships and any form of Corporation. 	<ul style="list-style-type: none"> • Individuals • Sole Proprietors • Partnerships and Corporations are not permitted to file under Chapter 13 in their own name (but their owners may benefit filing as individuals. 	<ul style="list-style-type: none"> • Virtually any entity or individual can voluntarily initiate a filing under Chapter 11. • In certain circumstances, Creditors can petition the Court to force a debtor to submit to a Chapter 11 process.
<p>Who’s eligible?</p>	<p>Income Limits:</p> <p>You must qualify under either of two income tests:</p> <ul style="list-style-type: none"> • Your income must be <i>equal to or less than</i> the median income for the state and county in which you reside; OR, • Your income under a “means test must be <i>equal to or less than</i> your “allowable expenses”. <p>If your income is greater than both tests you cannot file under Chapter 7 (but you may be able to file under Chapter 13).</p> <p>Additional Qualification Requirements</p> <ul style="list-style-type: none"> • You must NOT have had a bankruptcy petition dismissed during the prior 180 days, AND, • You must have received credit counseling from an approved credit counseling agency, within 180 days prior to your filing, AND, • States impose length of residency and additional requirements. 	<p>Debt Limits (For filings April 1, 2019 - March 31, 2022):</p> <ul style="list-style-type: none"> • Your non-secured debt (e.g., credit cards) must not exceed \$1,257,850, AND, • Your secured debt (e.g., home, car, boat) must not exceed \$419,275, AND, <p>Additional Qualification Requirements:</p> <ul style="list-style-type: none"> • Your anticipated income (from wages and other steady sources) must be reasonably expected to be sufficient to cover the monthly repayments according to what will become the Court-Approved Repayment plan AND, • You must be current on your federal and state tax filings for the prior 4 years, AND, • You must NOT have had a bankruptcy petition dismissed during the prior 180 days, AND, 	<p>There are no debt or income limits in order to file under Chapter 11.</p> <p>However, Chapter 11 is a costly and burdensome process for smaller businesses. Two special sections added to Chapter 11 streamline the process and lower the cost for Smaller Businesses:</p> <p>The Small Business Case and the Subchapter V Case, have certain eligibility requirements as follows:</p> <ul style="list-style-type: none"> • The business must be engaged in commercial or business activities other than owning or operating a single piece of real property, AND • Total debts must not exceed \$2,725,625, not less than 50 percent of which arose from the commercial or business activities of the debtor.

		<ul style="list-style-type: none"> You must have received credit counseling from an approved credit counseling agency, within 180 days prior to your filing. 	<ul style="list-style-type: none"> For Subchapter V filings prior to March 27, 2022, the debt limit is \$7,500,000.) <p>Individual filers eligibility is similar to a Chapter 13 filing, (but there is no maximum debt limitation) and there are additional reporting, and disclosure requirements.</p>
<p>What does it do??</p>	<p>For all filers:</p> <ul style="list-style-type: none"> As soon as a petition for Chapter 7 bankruptcy is filed with the court, an “Automatic Stay” will be issued. All attempts by any creditor or collection agency to collect on your debt, including existing or pending wage garnishments, must stop immediately. If continued, the collector is liable for suit, by you, under federal law. However, Child Support wage garnishments are NOT protected, and collection efforts on secured (collateralized) property may be allowed to continue by the Court. <p>For Individuals and Sole Proprietors:</p> <ul style="list-style-type: none"> Remaining unpaid unsecured debt may be discharged (cancelled). Eliminates personal liability on secured debt. However, your mortgage is still subject to foreclosure and your secured personal property (e.g., car) can still be repossessed. You will likely be able to keep your most essential property (e.g., primary residence, car) which are “exempt” property, and you may be able to keep some of your “non-exempt property”. 	<ul style="list-style-type: none"> “Automatic Stay” is issued by the Court – same as for Chapter 7. Co-signers of your debts are also protected under an “Automatic Stay”. You keep all of your property, including your home, car, personal property, even your bank accounts and investments, provided your consolidated monthly payments to the plan Trustee are sufficient to cover a Court-approved Repayment Plan’s commitments to your creditors. Your debts will be consolidated, some debts might be reduced, and repayment will be spread over 3 to 5 years. Prevents foreclosure and repossession on your primary residence, car, and all other “secured” assets, provided your Repayment Plan satisfies your restructured obligations and commitments to your secured creditors. Your unsecured debt will be consolidated, and repayment will be apportioned among your creditors to 	<ul style="list-style-type: none"> Automatic <i>Temporary Stay</i> suspends foreclosures and repossessions while a Plan of Reorganization and a monthly repayment amount is being negotiated and confirmed. The business continues to operate and use its property and assets. Repayment of creditors can be spread over more than 5 years. In most instances, the debtor becomes a “debtor in possession”- a fiduciary having all the non-investigative authority, powers, duties, and responsibilities that a case Trustee has under Chapter 13. A case Trustee will NOT be appointed unless there is cause: (e.g., fraud, dishonesty, incompetence or gross mismanagement, or criminal conduct). However, a case Trustee WILL be appointed under a Subchapter V filing.

	<ul style="list-style-type: none"> The case Trustee will sell all property you are unable to keep. <p>For Partnerships and Corporations:</p> <p>Basically, the only benefit for these entities in filing under Chapter 7 is to have the business property court-inventoried and Court-appointed-trustee-liquidated. This mitigates potential claims of bankruptcy fraud that might otherwise be filed by creditors of the business.</p>	<p>the extent possible under your approved Repayment Plan. If not, unsecured creditors must be paid at least as much as they would have gotten under a Chapter 7 filing.</p> <ul style="list-style-type: none"> Any remaining amount of unpaid unsecured debt that is included in the filing will usually be discharged. 	<ul style="list-style-type: none"> Any amount of remaining unsecured debt that will not be satisfied under the Plan of Reorganization will be discharged.
<p>What it does NOT do</p>	<ul style="list-style-type: none"> It does not prevent foreclosure on secured property (collateral for a loan such as your house, car, etc.) so you must be current on secured loan payments to keep this property. Certain debts are not “dischargeable”, and you will still be liable for them. (e.g., taxes, child support, alimony, student loans) If you own a business, it will be closed, and its property/assets will be consolidated with your personal property. If a Partnership or Corporation files under Chapter 7, the business will be liquidated, no debts will be discharged, and its owners might become liable for the unpaid debts of the business. 	<p>Unlike a Chapter 7 filing, Chapter 13 does not automatically discharge all of your debts. It is a debt restructuring and consolidation plan as opposed to a debt cancellation plan (although some of your debts may be reduced or cancelled).</p> <p>The Trustee will NOT sell your property.</p> <p>Your Court-approved Repayment Plan will specify a monthly repayment amount known as the Applicable Commitment Amount.</p> <p>The Applicable Commitment Amount is designed to assure that ALL of your monthly “disposable income” (as determined by the Court) is used to pay off your debts over 3 to 5 years. It is paid monthly to the Trustee, who, in turn, distributes it to your creditors.</p> <p>If the Court determines your Applicable Payment Amount will not be sufficient to repay your Priority and secured creditors, your case will be dismissed or converted to a Chapter 7 filing.</p>	<p>Chapter 11 is not intended to be a debt cancellation plan.</p> <p>If the Applicable Commitment Amount is insufficient to fulfill its required obligations to Priority and secured creditors, the case will be dismissed or converted to a Chapter 7 plan.</p> <p>Property is NOT liquidated under a “Reorganization Chapter 11 case unless it is permitted or required under the Plan of Reorganization.</p>

<p>What do I get to keep?</p> <p>Subject to limitations. NOT applicable to Partnerships & Corporations.</p>	<p>Income: Regardless of where you reside:</p> <ul style="list-style-type: none"> ERISA-Qualified, employer-sponsored retirement accounts and pension plans have an unlimited exemption and will not be forfeited or reduced. In addition... An aggregate amount of up to \$1,362,800 in your Traditional and Roth IRAs, SEP and SIMPLE IRA plans, is exempt. All wages, federal and state benefits (e.g., Social Security, Unemployment, Veterans), earned and received after filing. Alimony and spousal maintenance up to an amount reasonably necessary for your support <p>“Exempt” Property:</p> <p>The Code defines types of property that are “exempt” from being sold by the Bankruptcy Trustee to pay off your debts. However, the amount of value you may keep in exempt property is limited to specific dollar amounts according to a schedule that is updated every 3 years.</p> <p><i>More importantly...</i></p> <p>Each state has its own schedule of exempt property. ONLY your state’s schedule of exempt property may be claimed unless your state permits you to choose between the state and federal exemptions.</p> <p>As of 2021, only 19 states and the District of Columbia permit debtors to claim either the</p>	<p>The advantage of filing under Chapter 13 is that you get to keep whatever property you choose to keep <i>and can afford</i> to keep under the terms of your Repayment Plan, provided the Court reasonably believes you will have sufficient disposable income to complete your Repayment Plan in full over the 3-to-5-year Applicable Commitment Period.</p> <p>Unlike Chapter 7, the Chapter 13 Trustee does NOT take possession of and liquidate your property. You can even keep your investments and bank accounts <i>IF you can afford to keep them.</i></p>	<p>Business and Individual filers get to keep all property and assets provided the obligations to the Priority, secured and unsecured creditors as specified in the Plan of Reorganization can be satisfied.</p> <p>If not, Court will dismiss the case and you will have to file for a liquidation under Chapter 7 or convert your Chapter 11 filing to a Plan of Liquidation filing.</p>
--	---	--	--

	<p>federal or state’s exemptions. In all other states and jurisdictions, you can only use the state’s schedule of exempt property.</p>		
<p>What do I forfeit?</p>	<p>All of your non-exempt property, as well as exempt property in which your equity/value exceeds the exemption limit, can be sold by the trustee, with the proceeds used to pay off your creditors. Any remainder, less fees, will be paid to you.</p> <p>Partnerships and Corporations that file under Chapter 7 will be closed and all of their property will be liquidated to pay off creditors. If the liquidation proceeds exceed the amounts owed to creditors, the remainder will be paid to the business owners.</p> <p>If the liquidation proceeds are insufficient to pay off all of the amounts owed creditors, the unpaid debt will NOT be discharged, and the owners may become liable for the unpaid business debts.</p>	<p>The value of any unsecured property in excess of what would be its Chapter 7 exemption amount must be paid to the unsecured creditors.</p> <p>The amount of disposable income is equal to all of your income, less an allowance for <i>reasonable and necessary living expenses</i>.</p> <p>If under state law, you have expenses associated with non-exempt property that are not deemed reasonable and necessary living expenses, the total cost of maintaining such property – mortgage, taxes, rent, fees, maintenance expenses - will NOT be included in the living expenses deducted from your gross income to arrive at your Disposable Income.</p> <p>This means that if you have too much non-exempt property that has on-going costs, it may cause your Applicable Commitment Amount to be insufficient; in which case your Chapter 13 filing will be dismissed, and you will have to file under Chapter 7. If this becomes the case, depending on your state’s law, you may be able to preserve your Chapter 13 filing by voluntarily surrendering some or all of your non-exempt property to the Trustee who will in turn, sell the property and pay all of the proceeds to your unsecured creditors.</p>	<p>Similar to Chapter 13. However, secured creditors may request the Court to lift the Automatic Stay on property in which the debtor has no equity and it is not essential to the success of the Plan of Reorganization. If approved, the Creditor may repossess the secured property.</p> <p>Otherwise...</p> <p>Business and Individual filers get to keep all property and assets provided the obligations to the Priority, secured and unsecured creditors as specified in the Plan of Reorganization can be satisfied. If not, Court will dismiss the case and you will have to file for a liquidation under Chapter 7 or convert your Chapter 11 filing to a Plan of Liquidation filing.</p>

How Long will it take?	Typically, 4 to 6 months from filing to the Court's issuance of Discharge from debt	A Chapter 13 can take up to 5 years to complete, plus the amount of time to prepare and present the case to the Court.	Based on who is the entity or person filing, the number of creditors, and the amount of debt, a Chapter 11 case can take from as little as 4 months to as many years as the Court approves is appropriate under the Plan of Reorganization.
What will it cost?	Typically, \$1,000 to \$2,000 for attorney's fees and court costs, depending on the number of creditors and the extent of your property.	There are many factors that can affect the cost of a Chapter 13 bankruptcy. On average, though, Chapter 13 filings average \$3,000 to \$5,000	There are so many factors that affect the cost of a Chapter 11 bankruptcy, it is nearly impossible to give an accurate, credible answer here. However, on average, more simple cases average \$15,000 while more complex cases average costs well in excess of \$100,000.

Bankruptcy Help & Resources

For official U.S. Dept. of Justice Explanations:	<u>U.S. Courts – Chapter 7</u>	<u>U.S. Courts – Chapter 13</u>	<u>U.S. Courts – Chapter 11</u>
Personal and Business Bankruptcy Advice by Credit-Yogi.com	<u>Chapter 7 Bankruptcy Advice</u>	<u>Chapter 13 Bankruptcy Advice</u>	<u>Chapter 11 Bankruptcy Advice</u>

Free Bankruptcy Consultation Line: 866-964-9644 (live agent 24/7/365)

Call to schedule up to 4 free question and answer sessions with 1 or more bankruptcy attorneys or [fill out this request form](#)