

Chapter 13 Bankruptcy: How It Works and Who It Helps

What is Chapter 13 Bankruptcy and How is it Different from Chapter 7?

Chapter 13 bankruptcy, often referred to as the wage earner's plan, is designed for individuals with a regular income who are facing financial difficulties. It allows them to develop a repayment plan to pay off all or part of their debts over a period of three to five years. This form of bankruptcy is ideal for people who want to protect their assets, such as their home or car, which may not be exempt under Chapter 7 bankruptcy. It also offers a way to catch up on overdue payments, such as mortgage or car payments, by including them in the repayment plan.

The primary difference between Chapter 13 and Chapter 7 bankruptcy is in how debts are handled. While Chapter 7 involves liquidating non-exempt assets to pay creditors, Chapter 13 involves restructuring debt into a manageable repayment plan, allowing individuals to keep their assets and pay creditors over time. Chapter 7 is generally faster, with a process lasting around three to six months, while Chapter 13 requires a commitment of three to five years. Additionally, Chapter 13 is available to individuals with a regular income, while Chapter 7 is typically suited for those with little to no disposable income.

How Does a Chapter 13 Repayment Plan Work and What Debts Are Included?

The Chapter 13 repayment plan is a structured, court-supervised arrangement that enables debtors to repay their debts over three to five years. The process begins by filing the repayment plan with the bankruptcy court, outlining how the debts will be repaid. The plan must then be approved at a confirmation hearing, where the court ensures the plan is fair and feasible.

Once approved, the debtor makes regular monthly payments to a bankruptcy trustee, who distributes the funds to creditors based on the plan. The amount of the monthly payments depends on the debtor's disposable income, calculated after necessary living expenses. The repayment period typically lasts three years for those with an income below the state's median and five years for those with an income above the median.

Chapter 13 bankruptcy includes various types of debts:

1. **Priority Debts:** These must be paid in full through the repayment plan. Examples include recent income taxes, child support, and alimony.
2. **Secured Debts:** These are debts tied to collateral, such as mortgages or car loans. If the debtor is behind on payments, the repayment plan allows them to catch up on arrears and retain the assets.
3. **Unsecured Debts:** These include credit card debts, medical bills, and personal loans. They are generally paid after priority and secured debts, and the amount repaid depends

on the debtor's income and non-exempt assets.

Certain debts, such as student loans, are typically non-dischargeable in bankruptcy but can be included in the repayment plan to reduce monthly payments.

What Options Are Available if You're Struggling to Keep Up with Chapter 13 Payments?

If you are having difficulty keeping up with Chapter 13 payments, several options are available:

1. **Plan Modification:** You can request a modification of the repayment plan to adjust the terms to better align with your current financial situation. This is common in cases of job loss, reduced income, or unforeseen expenses. The court must approve the modification.
2. **Temporary Suspension:** In cases of temporary hardship, such as a medical emergency, the court may grant a temporary suspension of payments. However, the repayment period may be extended, and larger payments may be required later.
3. **Conversion to Chapter 7:** If you are unable to continue with the Chapter 13 plan, you may choose to convert your case to a Chapter 7 bankruptcy. This may eliminate most unsecured debts but may also risk losing secured assets like your home or car.
4. **Hardship Discharge:** In rare cases, a hardship discharge may be granted if you can no longer complete the Chapter 13 plan due to circumstances beyond your control, such as severe disability. This option still excludes certain non-dischargeable debts, like student loans and recent taxes.
5. **Voluntary Dismissal:** If none of the other options are feasible, you may choose to voluntarily dismiss the case, but this ends the repayment plan and may expose you to foreclosure or repossession.
6. **Refiling for Chapter 13:** In some cases, you may dismiss your current case and refile for Chapter 13, which allows you to create a new repayment plan. However, this requires good faith and may affect the protections of the automatic stay.

What Should I Consider Before Committing to a Chapter 13 Repayment Plan?

Before committing to a Chapter 13 bankruptcy repayment plan, it's important to understand the benefits and manageability of the commitment:

1. **Protection from Creditors:** Chapter 13 provides an automatic stay that stops foreclosure, repossession, and creditor harassment, offering immediate relief.

2. **Debt Management:** It consolidates your debts into one manageable monthly payment based on your income and expenses.
3. **Asset Retention:** Unlike Chapter 7, you get to keep your home, car, and other viable assets while catching up on missed payments.
4. **Fresh Financial Start:** Successfully completing the repayment plan offers a clean slate, allowing you to rebuild your financial future.

To manage the commitment, consider working with an experienced attorney who can help create a realistic plan based on your financial situation. Creating a detailed budget, focusing on essential expenses, and reducing discretionary spending can help you stay on track. It's also crucial to have a support system from family, friends, or financial counselors to help you manage the process.

Keep in mind that flexibility is built into the plan. If your financial situation changes, you can modify the plan, request a temporary suspension of payments, or even convert to Chapter 7 if necessary. The key is to remain focused on your long-term goal of eliminating debt and regaining financial stability.

Conclusion

Chapter 13 bankruptcy offers a path for individuals with steady income to regain control over their financial situation. By understanding how it works, the types of debts included, and the options available if you struggle with payments, you can make an informed decision about whether this approach is right for you. Always consult with an experienced bankruptcy attorney to guide you through the process and help you navigate any challenges.