



THE NEEDLEMAN LAW OFFICE

Are You Eligible for Chapter 13 Bankruptcy?

Learn whether Chapter 13 bankruptcy is an option for you.

Chapter 13 bankruptcy is a good option for some debtors, but it isn't available to everyone.

Businesses Can't File for Chapter 13 Bankruptcy

A business, even a sole proprietorship, cannot file for Chapter 13 bankruptcy in the name of that business. Businesses are steered toward Chapter 11 bankruptcy when they need help reorganizing their debts.

If you own a business, however, you can file for Chapter 13 bankruptcy as an individual. You can include in your Chapter 13 bankruptcy case business-related debts for which you are personally liable. There is one exception to this rule: Stockbrokers and commodity brokers cannot file a Chapter 13 bankruptcy case, even if they want to discharge only personal (nonbusiness) debts.

You Must Have Sufficient Disposable Income

In order to qualify for Chapter 13, you will have to show the bankruptcy court that you will have enough income, after subtracting certain allowed expenses and required payments on secured debts (such as a car loan or mortgage), to meet your repayment obligations. Your plan must pay back certain debts in full, or the judge will not confirm (approve) it and allow you to proceed.

You can use the income from the following sources to fund a Chapter 13 plan:

- regular wages or salary
- income from self-employment
- wages from seasonal work
- commissions from sales or other work
- pension payments
- Social Security benefits
- disability or workers' compensation benefits
- unemployment benefits, strike benefits, and the like
- public benefits (welfare payments)
- child support or alimony you receive
- royalties and rents, and
- proceeds from selling property, especially if selling property is your primary business.



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If you are married, your income does not necessarily have to be "yours." A nonworking spouse can file alone and use money from a working spouse as a source of income. And an unemployed spouse can file jointly with a working spouse.

Your Debts Must Not Be Too High

You do not qualify for Chapter 13 bankruptcy if your secured debts exceed \$1,010,650. (This amount is adjusted for inflation every three years; the last increase took effect on April 1, 2007.) A debt is secured if you stand to lose specific property if you don't make your payments to the creditor. Home loans and car loans are the most common examples of secured debts. But a debt might also be secured if a creditor -- such as the IRS -- has filed a lien (notice of claim) against your property.

In addition, for you to be eligible for Chapter 13 bankruptcy, your unsecured debts cannot exceed \$336,900. (This amount is also increased every three years.) An unsecured debt doesn't give the creditor a right to take a particular piece of property. Most debts are unsecured, including credit card debts, medical and legal bills, back utility bills, and department store charges.

You Must Be Current on Your Income Tax Filings

To file for Chapter 13, you will have to submit proof that you filed your federal and state income tax returns for the four tax years prior to your bankruptcy filing date. If you need some time to get current on your filings, the court can postpone the proceedings. Ultimately, however, if you don't produce your returns or transcripts of the returns for those four years, your Chapter 13 case will be dismissed.

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