



## THE NEEDLEMAN LAW OFFICE

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# The Bankruptcy Means Test: Is Your Income Low Enough for Chapter 7 Bankruptcy?

**A means test calculator can determine whether you qualify for Chapter 7 bankruptcy -- try one online.**

The bankruptcy law passed in 2005 included a new "means test" -- a formula designed to keep filers with higher incomes from filing for Chapter 7 bankruptcy. (These filers may use Chapter 13 bankruptcy to repay a portion of their debts, but may not use Chapter 7 to wipe out their debts altogether.)

Because of the means test requirement, some people mistakenly believe that they must be completely penniless in order to use Chapter 7. Not true. You can earn significant monthly income and still qualify for Chapter 7 bankruptcy, even under the revised law. In fact, most people who would have qualified for bankruptcy under the old law still qualify under the new law. This article shows you simple ways to determine whether you could pass the means test -- and, therefore, use Chapter 7 -- if you were to file for bankruptcy.

### **How Does the Means Test Work?**

The means test was designed to limit the use of Chapter 7 bankruptcy to those who truly can't pay their debts. It does this by deducting specific monthly expenses from your "current monthly income" (your average income over the six calendar months before you file for bankruptcy) to arrive at your monthly "disposable income." The higher your disposable income, the more likely you won't be allowed to use Chapter 7.

To take the means test, you must first determine whether your income is more or less than the median income in your state. If you earn more than the median, you must figure out whether you would have enough left over, after subtracting certain expenses, to repay some of your debt.

### **Is Your Income More Than the Median?**

The first step is simple: If your current monthly income is less than the median income for a household of your size in your state, you pass. Period. You're done. You do not need to complete the rest of the means test. You can file for Chapter 7.



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### **Do You Have Enough Disposable Income to Repay Some Debts?**

For those whose household income exceeds the state median, the means test computations get significantly more complex. You must determine whether you have enough income left over (called "disposable income"), after paying your "allowed" monthly expenses, to pay off at least a portion of your unsecured debts (such as credit card bills). If your disposable income adds up to more than a certain amount, you fail the means test and cannot file for Chapter 7.

Median income levels vary by state and household size, and each county and metropolitan region has different allowed amounts for categories of expenses: basic necessities, housing, and transportation. But don't worry: You can get through the math with the help of an online calculator at <http://www.legalconsumer.com/bankruptcy/nolo>.

You'll have to supply a good amount of financial information, but the calculator will save you the trouble of looking up income and expense figures for your area and doing the math. And, if you decide to file for bankruptcy, you can use these figures on your official paperwork (the calculator closely follows the format of the means test form, Official Form 22A, that you must complete when you file for bankruptcy).

### **If You Pass the Means Test**

Of course, just because you qualify under the means test does not necessarily mean you *should* file for Chapter 7 bankruptcy -- merely that you *can*. Any decision to file for Chapter 7 bankruptcy should be made only after considering alternatives and other factors.

### **If You Don't Pass the Means Test**

If you don't pass the means test, you are limited to using Chapter 13 bankruptcy, which requires you to make monthly payments over a five-year period according to a strict budget monitored by the court. Most people who file for bankruptcy prefer Chapter 7, which requires no repayment. However, Chapter 13 is still the best way to handle specific types of problems, like curing a default on a mortgage.

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