

## **The Different Types of Bankruptcy**

One very important thing to understand whether you're a home owner, business partner or corporate honcho, is the different **types of bankruptcy** that you can file under the Title 11 of the United States Bankruptcy Code. The words might come off as gibberish at first and the terminology might seem like it was put together by someone not from this planet but as a citizen of a continually growing country, you never know when this bit of bureaucratic know how might come in handy.

There are six primary kinds and chapters of bankruptcy proceedings that have provisions under the United States Bankruptcy Code. Each one is discussed and scrutinized for better understanding and application. The differences and similarities of each is based on necessities that have been found to be relevant to each specific group of individual debtor and attempts to create clear separation between each type of incidence.

### **Chapter 7 Bankruptcy, Entitled Liquidation**

This bankruptcy procedure considers systematic, court-supervised proceedings where a trustee gains control over the property of the debtor, and by order of the court, sold in exchange for cash. The proceeds will then be distributed by the trustee to the creditors. There will be properties that can and will be retained by the debtor with a mind to the rights of secured individuals if any. There are situations where there are minimal to no assets, which automatically means that no liquidation of a bankrupt individual's properties and assets can occur and this case will be tagged as a 'no-asset case'. A creditor who needs to collect unsecured payment may get the money owed from the debtor's estate provided that the procedure is an asset case and there is substantiation of claim that can be presented to the court. If the entity that filed for bankruptcy is a person and not a collective business organization, discharge may be granted that releases the said individual from liabilities for certain dischargeable money owed to certain creditors.

Changes made to Chapter 7 of the Bankruptcy Code put into place Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This serves as a gauge to check the eligibility of an individual debtor for relief or discharge from debts under Chapter 7.

### **Chapter 9 Bankruptcy, entitled Adjustments of Debts of a Municipality**

Much like Chapter 11 Bankruptcy, this type of case provides much needed reorganization but only municipalities such as cities, towns villages, taxing districts, counties, municipal utilities and school districts may file for a Chapter 9 proceeding.

### **Chapter 11 Bankruptcy, Entitled Reorganization**

This type of case is utilized by business enterprises that want to maintain a continued status of business operation and concurrently pay back creditors through an approved program of reorganization mandated by the court. A debtor under this bankruptcy case usually maintains the

right to create a plan of reorganization for the initial 120 days after the case has been filed. All the facts and details pertaining to the planned reorganization of the business will be disclosed to the creditors for evaluation, however, all powers of approval or disapproval remains with the court. The said reorganization may end unnecessary contracts and services that over taxes the said business. Resizing of commercial activity to minimize costs is also a usual option and a general consolidation of all business functions is aimed at creating profit and decreasing debt.

### **Chapter 12 Bankruptcy, Entitled Adjustment of Debts of a Family Farmer or Fisherman with Regular Annual Income**

This provision allows family farmers and fishermen with annual sources of income to suggest a repayment scheme that will allow the farmer or fisherman to proceed with business operations while this debt adjustment is under implementation. This plan should not be more than 3 years but will not exceed 5 years and a court-appointed trustee will oversee that the payments to creditors are made on time and the approved plan of repayment is followed.

### **Chapter 13 Bankruptcy, Entitled Adjustment of Debts of an Individual With Regular Income**

This bankruptcy scheme is for the individual debtor who has a steady means of income and it allows the debtor to hold important assets such as a house or a car. Similar to Chapter 12, the debtor can propose a plan for repayment to the creditors concerned with similar time constraints. Chapter 13 is said to be more preferable than Chapter 7 since the debtor maintains possession of the assets of his estate and as with chapter 12, a court-appointed trustee ensures that payments to creditors is maintained. A Chapter 13 debtor has to first complete the required payments before discharge is received from the court. While the plan is active, the debtor is immune from lawsuits, garnishments and other similar motions that involve collection of the said debt.

### **Chapter 15 Bankruptcy, Entitled Ancillary and Other Cross-Border Cases**

A relatively new chapter of legislation, this mechanism is in place to deal with cases that have no clear designation to all the described cases or as where an individual or the property involved is subject to the legislation of the U.S. and other countries. Chapter 15 has 5 basic goals. At the heart of which is the cooperation of all parties involved, national or otherwise, in the promotion of fair and efficient administration of cross-border bankruptcies that will protect and maximize the value of assets and offer aid to those who are in a financial dilemma.

Bankruptcy has been recorded in ages past and various countries have addressed these issues as directly as they can. The Title 11 of the United States Bankruptcy Code, although seeming to appear cruel and taxing, only wishes to grant relief from debt and abuse. Having proved to be shorthanded at times, it continually receives amendments that remake it to become a better tool.