

Chapter 7 Bankruptcy

When most people think of the word bankruptcy, they are thinking about Chapter 7 Bankruptcy. Chapter 7 Bankruptcy, also known as a “Liquidation Bankruptcy,” is where you seek to receive a discharge of all of your dischargeable debt. The experienced bankruptcy attorneys at Morton McGoldrick represent Tacoma clients regularly and successfully in Chapter 7 bankruptcies.

Filing for Chapter 7 Bankruptcy is an extremely important decision. The ramifications of filing bankruptcy can last a lifetime.

In order to qualify for Chapter 7 Bankruptcy, you generally must pass what is known as a means test. Under the means test, you will compare your annual income to the average income of a household of a similar size in the state of Washington. If you are under the median income, you will most likely qualify for Chapter 7 Bankruptcy. If you are over the median income, you might still be able to qualify for Chapter 7 Bankruptcy, but it depends on a number of other factors. Some individuals, such as those whose debts are primarily business debts, may not be required to file a means test.

In addition to the means test, you generally will also need to provide a budget to the bankruptcy court. The budget will list all of your take home income and all of your reasonable and necessary living expenses. If your budget shows that you do not have a significant amount of excess income to repay your creditors, you might be eligible to file Chapter 7 bankruptcy.

How Chapter 7 Bankruptcy Works

Under Chapter 7 Bankruptcy, you and your bankruptcy attorney at Morton McGoldrick will prepare your Voluntary Petition, Bankruptcy Schedules, Statement of Financial Affairs, and your Means Test. You will be required to complete a credit counseling program prior to filing the bankruptcy and an education program after the bankruptcy is filed. As soon as the bankruptcy is filed, you are under the protection of what is known as the “automatic stay.” The automatic stay prevents creditors from being able to take any action to collect money from you. Once your case is filed, creditors are no longer allowed to call you, send you bills, harass you, garnish your wages, repossess your vehicles, or foreclose on your home.

The Chapter 7 process will typically take about three months from the date that you file the case until you receive your discharge. You will have one court appearance to attend approximately five weeks after your case is filed. This court appearance is known as the Meeting of Creditors. Even though creditors have the ability to show up and ask you questions at that court appearance, creditors rarely appear. Instead, you will give testimony in front of a bankruptcy trustee. The bankruptcy trustee is somebody who has been appointed by the Department of Justice to administer your case. The chief function of the trustee is to determine whether you have any property that the trustee can take away from you, sell, and use the proceeds to pay your creditors.

Will You Lose Your Property if You File Chapter 7 Bankruptcy?

Most people who file for Chapter 7 Bankruptcy who reside in the state of Washington will not lose any money or property. Although bankruptcy is based on federal law, the state in which you reside controls what type of bankruptcy exemptions you can use to protect your property. Washington is one of the best states for bankruptcy protection because of its generous bankruptcy exemptions. In Washington, you are allowed to choose between the Washington Exemptions, which are good if you have a lot of equity in your home, and the Federal Exemptions, which are great because of a very generous “wildcard” exemption. Please note that the exemptions that you are permitted to use are typically based on where you lived two years prior to filing the bankruptcy. For this reason, it is very important to meet with an experienced bankruptcy attorney at Morton McGoldrick to determine which bankruptcy exemptions you will be allowed to use.

What Are the Benefits of Filing Chapter 7 Bankruptcy?

There are many benefits to Chapter 7 Bankruptcy. Some of those reasons are:

- Chapter 7 Bankruptcy will provide you with a fresh start. It may allow you to discharge all of your dischargeable debt over a very short period of time (usually 3 or 4 months).
- Once you file Chapter 7 Bankruptcy, creditors will not be allowed to attempt to collect money from you. The Automatic Stay prevents creditors from taking any action to collect from you. This means that they will not be permitted to call you, send you bills, file a lawsuit against you, or garnish your wages. If a creditor willfully violates the Automatic Stay, they can be subject to sanctions.
- Chapter 7 may temporarily stop a repossession of your vehicle or the foreclosure of your home.
- Chapter 7 may assist you to obtain your driver’s license if it has been suspended because of an accident that you were involved in and did not have insurance coverage.
- Under Chapter 7, you will most likely be able to keep your assets and secured debts, such as cars and houses, provided that you continue to pay your secured creditors.
- You can keep your future income. If you file Chapter 13 Bankruptcy, and your income increases, you may be required to increase your monthly plan payments. Under Chapter 7, any future income that you receive will not go to pay your creditors through the bankruptcy. The only exception to this would be inheritances. If anybody dies and names you as a beneficiary under a life insurance policy or retirement plan, or names you as an heir under a will or through the laws of intestacy, within 180 days after you file for bankruptcy, you will be required to notify the bankruptcy trustee. Unless exempt, that money may be taken by the bankruptcy trustee to repay your creditors.

What Happens if I Forget to List a Creditor?

When you file Chapter 7 Bankruptcy, you should make every effort to list all of your creditors in your bankruptcy documents. However, if you forget to list a creditor, there is still a chance that the unlisted debt can be discharged in your bankruptcy. A debt that was not listed in the bankruptcy will still be discharged as long as:

1. The debt was incurred before you filed bankruptcy.
2. The debt was not for something that would not have been discharged, such as child support, taxes, student loans, etc.
3. The Chapter 7 trustee did not take away any of your property and repay any money to creditors.

If you are ever contacted by an old creditor after you file for bankruptcy, please contact your attorney. Most creditors believe that if they were not listed in the bankruptcy, that you are still responsible for the debt. Your bankruptcy attorneys at Morton McGoldrick will contact creditors on your behalf, explain the law and request that they discontinue all collection activities.

Do I Need to Go to Court?

Everyone who files for bankruptcy must attend a brief meeting held in a court room. Your bankruptcy attorney from Morton McGoldrick will attend this meeting with you. Meetings are run by the bankruptcy trustee. Court appearances for bankruptcy are brief, usually lasting only a few minutes. Creditors may attend the hearing and ask questions, but rarely do. In Chapter 7 bankruptcy, the trustee will ask questions related to your assets and liabilities. Trustees will not ask you questions about why you filed for bankruptcy. In most cases, the questions will simply supplement the information that you have already provided in the documents that you signed when your case was filed.

How Do I Get Started?

The bankruptcy attorneys at Morton McGoldrick offer a one hour long free consultation in Tacoma office. You can meet with an experienced attorney to review your financial situation and answer your questions. If you decide to hire Morton McGoldrick to represent you, we will open a file for you and make payments arrangements available for your attorney fees and court costs. Once you have signed a fee agreement, you can start referring creditors to us immediately while we prepare your case. **WHEN OUR TACOMA CLIENTS RETAIN MORTON MCGOLDRICK TO FILE THEIR CHAPTER 7 BANKRUPTCY, THEY FEEL IMMEDIATE RELIEF.**