

## **BANKRUPTCY INFORMATION SHEET**

**BANKRUPTCY LAW IS A FEDERAL LAW. THIS SHEET PROVIDES YOU WITH GENERAL INFORMATION ABOUT WHAT HAPPENS IN A BANKRUPTCY CASE. THE INFORMATION HERE IS NOT COMPLETE. YOU MAY NEED LEGAL ADVICE.**

### **WHEN YOU FILE BANKRUPTCY**

You can choose the kind of bankruptcy that best meets your needs (provided you meet certain qualifications):

**Chapter 7** - A trustee is appointed to take over your property. Any property of value will be sold or turned into money to pay your creditors. You may be able to keep some personal items and possibly real estate depending on the law of the State where you live and applicable federal laws.

**Chapter 13** - You can usually keep your property, but you must earn wages or have some other source of regular income and you must agree to pay part of your income to your creditors. The court must approve your repayment plan and your budget. A trustee is appointed and will collect the payments from you, pay your creditors, and make sure you live up to the terms of your repayment plan.

Chapter 12 - Like chapter 13, but it is only for family farmers and family fishermen.

Chapter 11 - This is used mostly by businesses. In chapter 11, you may continue to operate your business, but your creditors and the court must approve a plan to repay your debts. There is no trustee unless the judge decides that one is necessary; if a trustee is appointed, the trustee takes control of your business and property.

If you have already filed bankruptcy under chapter 7, you may be able to change your case to another chapter.

Your bankruptcy may be reported on your credit record for as long as ten years. It can affect your ability to receive credit in the future.

### **WHAT IS A BANKRUPTCY DISCHARGE AND HOW DOES IT OPERATE?**

One of the reasons people file bankruptcy is to get a "discharge." A discharge is a court order which states that you do not have to pay most of your debts. Some debts cannot be discharged. For example, you cannot discharge debts for-

- most taxes;
- child support;
- alimony;
- most student loans;
- court fines and criminal restitution; and

- personal injury caused by driving drunk or under the influence of drugs.

The discharge only applies to debts that arose before the date you filed. Also, if the judge finds that you received money or property by fraud, that debt may not be discharged.

It is important to list all your property and debts in your bankruptcy schedules. If you do not list a debt, for example, it is possible the debt will not be discharged. The judge can also deny your discharge if you do something dishonest in connection with your bankruptcy case, such as destroy or hide property, falsify records, or lie, or if you disobey a court order.

You can only receive a chapter 7 discharge once every eight years. Other rules may apply if you previously received a discharge in a chapter 13 case. No one can make you pay a debt that has been discharged, but you can voluntarily pay any debt you wish to pay. You do not have to sign a reaffirmation agreement (see below) or any other kind of document to do this.

Some creditors hold a secured claim (for example, the bank that holds the mortgage on your house or the loan company that has a lien on your car). You do not have to pay a secured claim if the debt is discharged, but the creditor can still take the property.

### **WHAT IS A REAFFIRMATION AGREEMENT?**

Even if a debt can be discharged, you may have special reasons why you want to promise to pay it. For example, you may want to work out a plan with the bank to keep your car. To promise to pay that debt, you must sign and file a reaffirmation agreement with the court. Reaffirmation agreements are under special rules and are voluntary. They are not required by bankruptcy law or by any other law. Reaffirmation agreements-

- must be voluntary;
- must not place too heavy a burden on you or your family;
- must be in your best interest; and
- can be canceled any time before the court issues your discharge or within 60 days after the agreement is filed with the court, whichever gives you the most time.

If you are an individual and you are not represented by an attorney, the court must hold a hearing to decide whether to approve the reaffirmation agreement. The agreement will not be legally binding until the court approves it.

If you reaffirm a debt and then fail to pay it, you owe the debt the same as though there was no bankruptcy. The debt will not be discharged and the creditor can take action to recover any property on which it has a lien or mortgage. The creditor can also take legal action to recover a judgment against you.

**IF YOU WANT MORE INFORMATION OR HAVE ANY QUESTIONS ABOUT HOW THE BANKRUPTCY LAWS AFFECT YOU, YOU MAY NEED LEGAL ADVICE. THE TRUSTEE IN YOUR CASE IS NOT RESPONSIBLE FOR GIVING YOU LEGAL ADVICE.**

## **NOTICE REQUIRED BY TITLE 11 U.S. C. Section 527(b)**

### **IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER**

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules, and Statement of Financial Affairs, and in some cases a Statement of Intention, need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.

## **NOTICE REQUIRED BY TITLE 11 U.S.C. Section 527(b)(2)**

(A) All information that you are required to provide for the preparation and filing of a bankruptcy petition and any and all documents filed with the Bankruptcy Court thereafter during a Bankruptcy case are required to be **complete, accurate, and truthful**;

(B) All assets and all liabilities are required to be **completely and accurately disclosed** in the documents filed to commence the Bankruptcy case;

The replacement value of each asset as defined in section 506 [11USCS§ 506] must be stated in those documents where requested after reasonable inquiry to establish such value. Replacement value is defined as follows: with respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.

(C) Current monthly income, the amounts specified in section 707(b)(2)[11 USCS § 707(b)(2)], and, in a case under chapter 13 of this title[11 USCS §§ 1301 et seq.], disposable income (determined in accordance with section 707(b)(2) [11 USCS § 707(b)(2)]), are required to be stated after reasonable inquiry. The term “current monthly income” means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor’s spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii) [11 USCS § 521(a)(1)(B)(ii)]; or

(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii) [11 USCS § 521(a)(1)(B)(ii)]; and includes any amount paid by any entity other than the debtor (or in a joint case the debtor and debtor’s spouse), on a regular basis for the household expenses of the debtor or the debtor’s dependents (and in a joint case the debtor’s spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act [42 USCS §§ 301 et seq.], payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 if title 18 [18 USCS § 2331]) on account of their status as victims of such terrorism.

(D) Information that you provide during your case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

## **NOTICE REQUIRED BY TITLE 11 U.S.C. Section 527(c)**

### **1. DEBTOR'S DUTIES UNDER SECTION 521 OF THE BANKRUPTCY CODE:**

The debtor shall file a list of creditor; a schedule of assets and liabilities; a schedule of current income and current expenditures; a statement of the debtor's financial affairs and a section 342(b) certification. Copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor; a statement of the amount of monthly net income, itemized to show how the amount is calculated and a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition. Within thirty days after the date of the filing of a petition under chapter 7 or on or before the date of the meeting of creditors, whichever is earlier or within such additional time as the court, for cause, within such period fixes, the debtor shall file with the clerk a statement of his intention with respect to the retention or surrender of such property and, if applicable, specifying that such property is claimed as exempt, that the debtor intends to redeem such property, or that the debtor intends to reaffirm debts secured by such property. Within 30 days after the first date set for the meeting of creditors under 11 USCS § 341(a) or within such additional time as the court, for cause, within such 30-day period fixes, the debtor shall perform his intention with respect to such property.

A debtor who is an individual shall file with the court a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) [11 USCS § 109(h)] describing the services provided to the debtor; and a copy of the debt repayment plan, if any, developed under section 109(h) [11 USCS § 109(h)] through the approved nonprofit budget and credit counseling agency.

The debtor shall provide not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return or transcript required under applicable law for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and a copy of such return or transcript to any creditor that timely requests such copy.

A debtor who is an individual shall file with the court at the same time filed with the taxing authority, a copy of each Federal income tax return or transcript required under applicable law with respect to each tax year of the debtor ending while the case is pending under such chapter. **If the debtor does not file the required Tax return or obtain the extension within 90 days after a request is filed by the taxing authority the court shall CONVERT OR DISMISS THE CASE, whichever is in the best interests of creditors and the estate.**

If an individual debtor in a voluntary case under chapter 7 or 13 file all of the information required under 11 U.S.C. section 521(a)(1) within 45 days after the date of the filing of the petition, THE CASE SHALL BE AUTOMATICALLY DISMISSED EFFECTIVE ON THE 46<sup>TH</sup> DAY AFTER THE DATE OF THE FILING OF THE PETITION.

The above is an abbreviated list of Debtor's duties under 11 U.S.C. section 521. A complete list of Debtor's Duties pursuant to 11 U.S.C. section 521 are attached for your review.

### **2. HOW TO VALUE ASSETS AT REPLACEMENT VALUE:**

You must determine how much your personal property is valued at today. Replacement value is defined as follows: with respects to property acquired for personal, family, or household purposes,

replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined. If you cannot place a value on your assets a professional appraiser can be hired by you to value your personal property. The cost of the appraiser's fees will be paid for by you.

**3. HOW TO DETERMINE CURRENT MONTHLY INCOME:**

The term "current monthly income" means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period immediately prior to the commencement of your bankruptcy case. Current monthly income includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependant), but excludes benefits received under the Social Security Act [42 USCS §§ 301 et seq.], payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18 [18 USCS § 2331]) on account of their status as victims of such terrorism.

**4. HOW TO DETERMINE THE AMOUNTS SPECIFIED IN SECTION 707(b)(2) AND IN A CHAPTER 13 CASE, HOW TO DETERMINE DISPOSABLE INCOME IN ACCORDANCE WITH SECTION 707(b)(2) AND RELATED CALCULATIONS**

In order to determine these amounts, you must provide us with your actual expenditures you make in each of the following categories: food, housekeeping supplies, apparel and services, personal care, miscellaneous, housing, utilities and transportation costs. We will compare them in conjunction with your current monthly income to the allowed amounts pursuant to current Internal Revenue Standards in order to determine your disposable income\* in accordance with Section 707(b)(2). Attached is a copy of 11 U.S.C. section 717(b)(2) for your review.

**5. HOW TO COMPLETE THE LIST OF CREDITOR, INCLUDING HOW TO DETERMINE WHAT AMOUNT IS OWED AND WHAT ADDRESS FOR THE CREDITOR SHOULD BE SHOWN:**

In order to determine your list of creditors, the amount owed and what address should be shown, we will need to see your bills for each creditor for a period of 90 days immediately prior to the commencement of your case. We may utilize a National list of creditors' addresses for additional information. IT IS VITAL TO HAVE THE PROPER ADDRESS FOR EACH CREDITOR AS WELL AS THE ACCOUNT NUMBER FOR EACH CREDITOR, FAILURE TO PROVIDE THIS INFORMATION MAY RESULT IN ANY NOTICE BEING GIVEN TO THAT CREDITOR BEING TREATED AS INVALID, RESULTING IN THAT DEBT NOT BEING DISCHARGED IN YOUR BANKRUPTCY CASE.

**6. HOW TO DETERMINE WHAT PROPERTY IS EXEMPT AND HOW TO VALUE EXEMPT PROPERTY AT REPLACEMENT VALUE AS DEFINED IN SECTION 506 OF THE BANKRUPTCY CODE.**

When you provide us with a complete list of your real and personal property we will review this list with you in conjunction with the Pennsylvania Exemption law and/or Federal Bankruptcy Exemption law. The Federal Bankruptcy Exemption law is located at 11 U.S.C. section 522 and the Pennsylvania Exemption law is located at Title 42 Pa.C.S.A sections 8123 and 8124

## UNITED STATES BANKRUPTCY COURT

### NOTICE TO CONSUMER DEBTOR(S) UNDER §342(b) OF THE BANKRUPTCY CODE

In accordance with § 342(b) of the Bankruptcy Code, this notice to individuals with primarily consumer debts: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case.

You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

Notices from the bankruptcy court are sent to the mailing address you list on your bankruptcy petition. In order to ensure that you receive information about events concerning your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address. If you are filing a **joint case** (a single bankruptcy case for two individuals married to each other), and each spouse lists the same mailing address on the bankruptcy petition, you and your spouse will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly addressed envelope, unless you file a statement with the court requesting that each spouse receive a separate copy of all notices.

#### **1. Services Available from Credit Counseling Agencies**

**With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis.** The briefing must be given within 180 days **before** the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies. Each debtor in a joint case must complete the briefing.

**In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge.** The clerk also has a list of approved financial management instructional courses. Each debtor in a joint case must complete the course.

## **2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors**

### **Chapter 7: Liquidation (\$245 filing fee, \$75 administrative fee, \$15 trustee surcharge: Total fee \$335)**

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a “means test” designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, the United States trustee (or bankruptcy administrator), the trustee, or creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

### **Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$75 administrative fee: Total fee \$310)**

Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

**Chapter 11: Reorganization (\$1,167 filing fee, \$46 administrative fee: Total fee \$1,213)**

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

**Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$46 administrative fee: Total fee \$246)**

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

**3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials**

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

**WARNING:** Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court. The documents and the deadlines for filing them are listed on Form B200, which is posted at [http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).