

bankruptcy basics

/ DIFFERENCE BETWEEN 7 & 13



Should I file a Chapter 7 or Chapter 13?

What is difference?

Chapter 7 and 13 are the two types of bankruptcies typically available to individuals. The biggest difference is that Ch. 7 focuses on discharging (eliminating) unsecured debt such as credit cards, personal loans, and medical bills, while Chapter 13 allows you to catch up on secured debts like your home or your car while also discharging unsecured debt.



Chapter 7 protects “exempt” assets and discharges (gets rid of) most or all of your debts, such as credit cards, personal loans and medical bills. A Chapter 7 typically takes 3-4 months from the time of filing to the time of discharge.

Chapter 13 allows for a repayment plan to catch up on secured debt, such as house or car loan, while also discharging most or all of your unsecured debts. A Ch. 13 can take 3-5 years. You obtain a discharge only after you have made all payments. The Ch. 13 payment is based on what you can afford, and protects you from all your creditors throughout the process.

What types of debt are discharged?

There are certain types of debt that are not discharged in bankruptcy, such as recent income taxes, child and spousal support, student loans, criminal fines and debts incurred through fraud. Under Chapter 7, if you have any of these debts, you need to deal with them after your case is finished.

Under Chapter 13, you can arrange to pay off those kinds of special debts through the Ch. 13 plan.

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Dealing with Secured Creditors

Secured creditors are creditors whose debt is connected to one of your assets such as a home or car. If you fall behind on that debt, the creditor can take the asset connected to the debt.

Chapter 7

- you are not given the time to catch up on secured debt if you are behind.
- If you are current, you can keep on making those payments, if you are behind and do not catch up your creditors can move forward with collecting on the debt after the bankruptcy is over.

Chapter 13

- you are given time to pay on your mortgage or vehicle arrears over 3-5 years.
- You may be able to save by “cramming down” the balance on an older vehicle loan to the value of the vehicle if your loan was made over 910 days ago (2.5 years).

Time limits between filings to get a discharge

The bankruptcy code determines how many bankruptcy discharges you may obtain in a certain amount of time:

If you file	Must Wait (from date of filing)	Before Filing and receiving discharge
CH 7	8 years	CH 7
CH 7	4 years	CH 13
CH 13	6 years	CH 7
CH 13	2 years	CH 13

Questions you need to ask before making the decision as to whether you should file a Ch. 7 or 13 or bankruptcy at all!

What type of debt do I have?

Do I have assets that I am trying to protect from secured creditors?

Am I eligible to get a discharge due to passage of time from prior bankruptcy?

What is my goal with bankruptcy?
Stopping foreclosure or car repossession? Stopping wage garnishment? Discharge utility debt?

