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What Happens After Chapter 7 Bankruptcy?

Many times, because of court ordered payment plans and consequences to credit histories, what happens after Chapter 7 bankruptcy depends on what debt is discharged in the bankruptcy.

What can NOT be discharged under Chapter 7 bankruptcy?

Most unsecured debt, like credit card debt, CAN be discharged in bankruptcy. EXCEPTIONS include:

- Government funded student loans
- Certain forms of tax debt
- Federal tax liens
- Child support
- Alimony/ spousal support
- Debts for personal injury or death caused by debtor's operation of a motor vehicle
- Fines and penalties for violating the law
- Certain tax- advantaged retirement plans
- Cooperative housing fees

Furthermore, there are certain debts that CANNOT be discharged under Chapter 7, but MAY be discharged under Chapter 13:

- Debts for willful and malicious injury to property
- Non- dischargeable tax obligations
- Property settlements in divorce or separation proceedings.

There are certain exceptions to these rules, however.

Can tax debt ever be discharged through Chapter 7 bankruptcy?

The bankruptcy court MAY discharge your tax debt if ALL of the following elements are met:

- The taxes are income taxes. Taxes other than income, such as payroll taxes or fraud penalties, can never be eliminated in bankruptcy.
- You did not commit fraud or willful evasion.
- The debt is at least three years old.
- You filed a tax return.
- The income tax debt was assessed by the IRS at least 240 days before you filed your bankruptcy petition, or has not yet been assessed.

Can student loans ever be discharged through Chapter 7 bankruptcy?

Private student loans are sometimes discharged, though it is rare. Courts hold stringently to the requirement that you must show that paying off the loan will impose an "undue hardship" on you and your dependents. You must be able to show that you cannot pay the student loan payments now and will not be able to in the future. Courts have been more likely to grant this discharge in the cases of debtors who are permanently disabled from working.

Chapter 13 bankruptcy allows you to include the student loan in your payment plan, but you are still responsible for all the debt that remains once your payment plan is complete.

Will the IRS audit me after Chapter 7 bankruptcy is filed?

There is no law that prompts the IRS to pay closer attention to those who file bankruptcy. Furthermore, it would be impractical for the IRS to target all of the people who file bankruptcy, because there are simply too many (approx. 1.5 million per year). The IRS typically focuses on those who do not file their tax forms, do not pay their taxes, or file inaccurate or fraudulent information.

My ex-spouse, who pays me child support, is filing for bankruptcy. Can he get out of his child support obligations through Chapter 7 bankruptcy?

No. There are certain types of debts that the courts will not excuse. "Priority debts" are a type of debt that the court considers too important to discharge. Child support is a priority debt. Therefore, your ex-spouse will still be responsible for child support even after Chapter 7 bankruptcy.

My spouse was married before, and they accrued a lot of debt and filed bankruptcy. This was over eight years ago, but the bankruptcy still appears on credit reports. We've also taken care of a lot of old debt, but it still shows up on our credit report as unpaid. How can we fix it?

You can clean up your credit report with the credit bureau itself. There is a form called "request for reinvestigation" that is available with your credit report. You could fill this out and submit it to the credit bureau, or you can write the credit bureau and include all of the inaccurate information that needs to be updated. In your letter, ask the bureau to reinvestigate all of the inaccurate information. If the bureau insists that the information is accurate, you can contact the creditors directly and have them verify in writing that the debts has been satisfied. Then, send that writing to the bureau as proof, and ask them to update the information. You can also call the customer service line of the credit bureau.

Having bad credit can hinder you from being approved for loans and mortgages. Once you have cleared up and updated your credit history, you should have better luck securing a loan or a mortgage. You can still expect to pay higher interest rates, pay a higher down payment, or even need a co-signer, though. Because of the complications in your credit history, it would be wise to use a mortgage broker when you decide to buy a house.

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