

# How to Prepare and File Chapter 7 Bankruptcy



A Publication of National Association of Legal  
Document Preparers, Inc., Washington, D.C.

## Navigating the New Bankruptcy Law, Your Guide to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

This publication is available commercially to consumers and legal document preparers to assist individuals representing themselves in Chapter 7 bankruptcy. It provides general information only and is not a comprehensive review of bankruptcy law. It should be used as a guide and reference only and is not a substitute for the advice of a competent attorney.

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# Introduction

On October 17, 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 took effect, significantly altering bankruptcy filing procedures. This pamphlet, provided by National Association of Legal Document Preparers, Inc., is a guidebook for individuals and families filing for Chapter 7 bankruptcy under the new law. Chapter 7 bankruptcy allows you to discharge or erase most of your debts — as opposed to a Chapter 13 filing, which sets up a repayment plan. Chapter 7 is the most common type of bankruptcy filing.

This pamphlet will walk you through the process of filing for a Chapter 7 bankruptcy under the new law and provide you with helpful information at every step along the way.

The pamphlet is broken down into four sections. Section I provides an overview of bankruptcies and supplies you with the basic information and vocabulary that will help you in the process. Section II discusses the general process of filing for a Chapter 7 bankruptcy and answers the basic questions most people have before they file. Section III is a step-by-step overview of the paperwork you will need to complete for your Chapter 7 bankruptcy. Section IV explains the process of completing your bankruptcy once you have finished the paperwork.

## Section I: Overview of Bankruptcy

The following section provides an overview of applying for a Chapter 7 bankruptcy under the new law. It will equip you with a better understanding of the most commonly used words in bankruptcy filings, outline the different types of bankruptcies, provide you with a better understanding of Chapter 7 bankruptcy and discuss the process of filing for a bankruptcy on your own.

### Understanding the Language

The following is a list of words that will help you better understand the process of filing for bankruptcy.

Assets	Things that belong to you (your property)
Creditor	A person who claims you owe them money
Debtor	A person who owes money to a creditor
Debts	What you owe someone (loan, credit card, medical bill, etc.)
Discharge	A court order relieving you of debts
Exemption	Rules that allow you to keep some of your property
Homestead	The house that you live in
Equity	The value of your property subtracting loans on it
Petitions and Schedules	The forms you will have to complete for your bankruptcy
Priority Claim	Priority claims are those granted special status by the bankruptcy law, such as most taxes and the costs of bankruptcy proceedings
Reaffirmation	A new agreement with a creditor to pay the debt you owe for secured property, like a car, so you won't lose it during the bankruptcy process

<b>Replacement Value</b>	A property's value considering its age and condition
<b>Secured Debt</b>	A debt that has property that can be taken if you do not pay it
<b>Unsecured Debt</b>	A debt not tied to an asset such as a credit card or doctor's bill

## Different Types of Bankruptcy Filings Under the New Law

There are four types of bankruptcies: Chapter 7, Chapter 11, Chapter 12 and Chapter 13. Chapter 7 and Chapter 13 bankruptcies are the most common for individuals, families and small businesses.

**Chapter 7** – Chapter 7 is the most common type of bankruptcy for consumers. Under Chapter 7, any property that is not exempt will be sold off to pay off some of your debts. Most of the remaining unsecured debt can be discharged. To qualify for a Chapter 7 filing, you must pass an income test that compares your income with the median income of the state you live in.

**Chapter 11 and Chapter 12** – Chapter 11 bankruptcy is for corporations or individuals with very high debts. Chapter 12 bankruptcy is for family farmers and fishermen. Chapter 11 and Chapter 12 bankruptcies will rarely be filed by consumers.

**Chapter 13** – Also referred to as wage earner reorganization, Chapter 13 bankruptcy sets up a repayment plan, generally lasting three to five years, to pay off some or all of your debts. Debtors with higher incomes may have to file a Chapter 13 instead of a Chapter 7.

## Chapter 7 Basics Under the New Law

### **Who**

To file a Chapter 7 bankruptcy you must be an individual, partnership or corporation. You do **not** need to be a citizen of the United States, but you do need to reside in the United States or own a business or property in the country.

### **When**

You may **not** file a Chapter 7 bankruptcy if:

- A. you have filed a Chapter 7 bankruptcy and received a discharge of your debts in the past eight years; or
- B. you have filed a Chapter 13 bankruptcy in good faith in the past six years and have not paid off at least 70% of your unsecured debts.

**Where**

You must file your Chapter 7 bankruptcy in the state where you have lived the majority of the 180 days prior to filing. However, use the property exemptions for the state where you have lived continuously for the past two years. If you have not lived continuously in one state for the past two years, use the state where you lived for the majority of the six month period before the past two years.

## **Filing Your Own Chapter 7 Bankruptcy**

**Bankruptcy Petition Preparers**

Many people choose to file their bankruptcies without the use of an attorney. In doing so, they often seek the help of a bankruptcy petition preparer (BPP). A BPP is a non-lawyer who can assist you in the preparation of your bankruptcy by providing general resource materials and professionally typing all of your documents. It is important to understand that they cannot offer legal advice. Under bankruptcy law, a BPP is also deemed to be a “debt relief agency,” as are lawyers, who can help you file for bankruptcy and must take reasonable efforts to make sure that the information in your Chapter 7 bankruptcy documents is accurate.

A BPP cannot give you specific legal advice on how to answer questions in your Chapter 7 petition and schedules regarding your debts, property, exemptions or other issues. Only an attorney can give you specific legal advice. A BPP may provide you, free of charge or for a small fee, general published materials on bankruptcy, such as this booklet. In addition, you can find information on filing a bankruptcy in your local library, bookstore or on the internet. A United States government booklet called *Bankruptcy Basics* is available at [www.uscourts.gov](http://www.uscourts.gov). Additional information is also available at [www.naldp.org](http://www.naldp.org).

## Section II: Chapter 7 Filing

The following section discusses the basic components of a Chapter 7 filing under the new law, including a general timeline, discharging debts, exemptions, credit counseling and the means test. This information is important to understand before you begin the actual process of filing for a Chapter 7 bankruptcy.

### Overview

The process of filing for a Chapter 7 bankruptcy can be time-consuming. There are many different forms to complete, and attention to accuracy and detail is essential.

The following is a general timeline for you to refer to when working your way through your Chapter 7 bankruptcy. Every item will be discussed in greater detail as you work your way through the pamphlet.

1. **Median Income Test** – Take a median income test to see if you are qualified for Chapter 7 bankruptcy.
2. **Consumer Credit Counseling** – Before you can file a Chapter 7 bankruptcy, you must complete a 90-minute counseling session.
3. **Receive your Certificate of Completion and Financial Plan** from your consumer credit counselor. You will need to submit these with your paperwork.
4. **Complete your paperwork** – Complete the petition and all required schedules, paying great attention to detail.
5. **Sign and submit your paperwork** – You will need to submit a \$274 filing fee with your paperwork.
6. **Attend your first creditors' meeting** – Once you submit your paperwork to the court, you will receive notice of your first creditors' meeting. You will need to submit your federal income tax return to your assigned Bankruptcy Trustee seven days prior to the meeting.

7. **File additional documents** – Within 45 days of filing, you will need to submit additional documents to the court.
8. **Complete your credit education course** – Before you can get your debts discharged, you will need to complete an approved financial management program.
9. **File your certificate of completion with the court** – Once you have completed your financial management class, you need to file your certificate with the court before you can receive a discharge of your debts.
10. **Receive a discharge of your debts.**

## Discharging Debts

It is a common misconception that all debts will be erased in a Chapter 7 bankruptcy filing. Although most unsecured debts can be discharged in a Chapter 7, the following is a non-exclusive list of common debts that **cannot** be discharged under Chapter 7 bankruptcy:

1. Alimony and child support;
2. Certain taxes and government costs;
3. Student loans;
4. Debts from injury caused by drunk driving and criminal restitution;
5. Debts of more than \$500 for consumer goods bought within the 90 days prior to filing for bankruptcy;
6. Cash advances totaling more than \$750 in the 70 days prior to filing for bankruptcy;
7. Certain types of fraud such as bad checks and dishonest credit applications.

There are other types of debts that cannot be discharged in Chapter 7 bankruptcy. You should consult with an attorney if you have questions about whether a particular debt is dischargeable.

## Exemptions

Each state and the federal government have certain laws regarding what property you can keep in a Chapter 7 bankruptcy – these are called exemptions. “Exempt” means that the property is protected and does not have to be turned over to your creditors as payment for your debts. Exemptions normally protect basic living and work-related necessities. These exemptions can include your house, car, retirement investments, clothing and other personal property up to a certain limit. You will claim how much you intend to protect for each type of property listed on your bankruptcy paperwork. This is discussed further in Section III. A copy of your state’s exemption list can be found at [www.naldp.org](http://www.naldp.org).

## Consumer Credit Counseling

### **Before You File**

You must complete a 90-minute consumer credit counseling briefing from an approved non-profit agency within the six months before you file. The agency will give you a certificate of completion and a plan for your debts, which must be filed with the paperwork for your Chapter 7 bankruptcy. If you have an emergency situation, you are allowed to delay your counseling and file immediately. If you are disabled or on active-duty military status in a combat zone, you may not be required to take the counseling session. You can get information on approved non-profit counseling agencies from [www.naldp.org](http://www.naldp.org).

Remember to keep the certificate and financial plan that the counselor gives you, as you will need to file them with your Chapter 7 paperwork if you decide to file.

### **To Get Your Discharge**

After you file your Chapter 7 bankruptcy, you must complete an education course on personal finance management and file a certificate of completion with the court before you receive your discharge.

## Median Income and Means Test

The median income test is the first step that you should complete when thinking about filing for a Chapter 7 bankruptcy. The median income test shows whether your monthly income is below the median income for people in your state. If it is, you can file for a Chapter 7. If your income is higher than the median income for your state, you need to take a means test to see if you qualify for a Chapter 7.

Follow the example below to see if you pass the initial median income test.

a) Total monthly income for past six months	<u>\$ 15,000</u>
b) Divide by six to get a monthly average	<u>\$ 2,500</u>
c) Multiply by 12	<u>\$ 30,000</u>
d) Median income for sample state	<u>\$ 45,000</u>

In the example, because the monthly income of the individual is below the median monthly income for their state of residence, this individual qualifies for a Chapter 7 bankruptcy. If the individual's income had been higher than their state's median income, they would have had to complete further tests to see if they qualify. A bankruptcy petition preparer can give you the necessary materials to see if you qualify for a Chapter 7 bankruptcy. A complete list of median income levels by state is available online at [www.naldp.org](http://www.naldp.org).

The means test also considers how many people are in the household, how much they contribute and other factors to determine if a person qualifies for Chapter 7.

## **Paperwork**

All Chapter 7 bankruptcies include a petition and a number of schedules to provide the court with information regarding you, your income, expenses, debts and property. You must complete this information honestly and as completely and accurately as possible.

When you are calculating the value of your property or the amount of your exemptions, you need to use the replacement value of your property. The replacement value is the amount it would cost to buy the property from a store, considering its age and conditions. You need to list the value as a “used” piece of property. For example, a 1998 Toyota Celica would be listed at approximately \$8,000, not the new price of \$30,000. You cannot deduct the cost of selling the property from this value.

### ***Joint Filing***

If you and a spouse are filing a Chapter 7 bankruptcy, complete information for both of you in joint petitions and schedules.

### ***Filing Fee***

You will need to pay a \$274 filing fee when you submit your bankruptcy paperwork to the court.

### ***After Filing***

Within 45 days of filing your initial paperwork, you will need to supply the court with additional materials. If you do not file these additional documents within 45 days of your initial filing, your case will automatically be dismissed. The additional documents you must file within 45 days are:

- a) Copies of any pay stubs received from your employer within the 60 days prior to the day you originally filed for Chapter 7 bankruptcy. If you do not have any pay stubs from the last 60 days, ask your employer for copies.
- b) Statement of your monthly net income and how it was calculated. Your monthly net income is your income minus the expenses you have each month.
- c) Statement of any increase in income and expenses expected in the 12 months after your original filing date. You only need to submit increases that you already know about.
- d) If you have an Educational Savings Account or a qualified State Tuition Savings Program, you must file a record of this.

## Section III: Completing Your Paperwork

The following section walks you through the actual process of completing the Chapter 7 bankruptcy paperwork. Before you start, you should make plans to complete your consumer credit counseling, as you will need to submit the certificate and financial plan the counselor gives you with your paperwork. You should also take an initial median income test to see whether or not you qualify for Chapter 7 bankruptcy. Lastly, you should collect as many of your financial statements and relevant information before you begin, as you will need them over the course of completing your paperwork.

### Voluntary Petition

The first pages of your Chapter 7 are called the voluntary petition. The voluntary petition asks for basic information about you, such as your name, address, social security number, residence history, your bankruptcy history, your military status and whether you have completed your consumer credit counseling. The voluntary petition also asks for an estimate of the value of your property, the total of your debt and a summary of schedules page.

You will complete the summary of schedules after you have finished the rest of the paperwork, as the amounts you enter on the summary come directly from your completed schedules. The following table is an example of the summary of schedules page. It is important to note that you do not need to list amounts for schedules G and H and that the dollar figures for schedules I and J should be listed in the “Other” column.

Name of Schedule	Asset	Liabilities	Other
A - Real Property	\$150,000	\$135,000	
B - Personal Property	\$5,000	\$2,500	
C - Property Claimed as Exempt	\$17,000		
D - Creditors Holding Secured Claims		\$137,500	
E - Creditors Holding Unsecured Claims		\$11,450	
F - Creditors Holding Unsecured Priority Claims		\$0.00	
G - Executory Leases and Unexpired Leases	XXXX	XXXX	XXXX
H - Co-Debtors	XXXX	XXXX	XXXX
I - Current Income of Ind. Debtors			\$3,000
J - Current Expenditures of Ind. Debtors			\$2,950

## Schedules A & B - Property

These schedules show what real property (house, condo, unimproved land, etc.) and personal property (car, furniture, clothes, retirement accounts, etc.) you own.

Below is an example of parts of completed Schedules A & B:

Schedule A. Real Estate				
Description and Location	Nature of Interest	Husband/Wife/Joint	Current Market Value	Amount of Secured Claim
Home, 55 Maple Lane, NY	Fee Simple	Joint	\$150,000	\$135,000

Schedule B. Personal Property				
Type of Property	None	Description of Property	Husband/Wife/Joint	Current Market Value
Automobile		1998 Toyota Celica	Husband	\$8,000
Checking/Savings	X			
Household Goods		Couch, Bed, Dresser, Computer, Table, Chair	Joint	\$2,500
Furs and Jewelry	X			

## **Schedule C - Exemptions**

This is the schedule where you can claim protections for some of your property. This is usually the most difficult schedule for people to understand. We will review it step-by-step.

### ***How Exemptions Work***

It is important to understand what exemptions are. An exemption is a protection for some of your property so that you don't have to turn it over to your creditors. It allows you to protect some or all of the value in your property up to the exemption amount.

For example, an individual owns a home that they live in. That home is valued at \$150,000 and they have a \$135,000 mortgage on the house. This means that the equity, or value that this individual has in the home is \$15,000 ( $\$150,000 - \$135,000 = \$15,000$ ).

If the state in which that individual lives has a homestead exemption of \$15,000, or any amount greater than \$15,000, the full value of the house is protected and a creditor cannot take it under the bankruptcy.

### ***State or Federal Exemptions?***

The first section of the schedule asks whether you intend to use the state or federal list of exemptions. Some states allow you to use one list or the other, but most states only allow you to use the list for that particular state. You can find a list of federal and state exemptions at [www.naldp.org](http://www.naldp.org).

### ***Equity in Your House***

There are certain requirements that need to be looked at if the equity in your house is more than \$125,000. The most important will be whether you have moved from another state and bought a home within the last 1,215 days (a little over three years). If you bought a home in a new state within that period, your homestead exemption is limited to \$125,000, or your new state's exemption, whichever is less.

### ***Completing Schedule C***

When completing Schedule C, you need to list the specific statute for each exemption in your Schedule C property list. For example, in New York the homestead exemption statute is C.P.L.R. § 5206(a), and the maximum is \$50,000 for an individual or \$100,000 for a couple. Remember, you must refer to the specific law, and use the proper dollar amount, for your state.

The following is a sample of a completed Schedule C for New York State:

Schedule C. Property Claimed as Exempt			
	11 USC 522(b)(1) Federal Exemptions (Available only in certain states)		
X	11 USC 522(b)(2) State Exemptions		
Description of Property	Specify Law for Each Exemption	Value of Claimed Exemption	Current Market Value of Property
Home, 55 Maple Lane	C.P.L.R. § 5206(a)	\$15,000	\$150,000
1998 Toyota Celica	Deb. & Cred. § 282(1)	\$2,000	\$8,000

## Schedules D, E & F - Creditors

Schedules D, E and F are where you list the name, address and amount you owe for each one of your creditors.

- Schedule D** - Schedule D is for creditors who have security interest. A security interest is most often property like your car, which secures the loan on your car. A house is another example because it secures a mortgage loan.
- Schedule E** - Schedule E is for unsecured priority creditors. For example, if you have outstanding taxes due to the government or owe child support, these are debts entitled to "priority" under the Bankruptcy Code. They are unsecured because there is no property that secures those loans. Remember, most taxes and child support are not dischargeable in a Chapter 7 bankruptcy.
- Schedule F** - Schedule F is for unsecured, non-priority creditors such as credit cards, student loans and medical bills.

In Schedules D, E and F there are sections that ask whether the debt is contingent, unliquidated or disputed. These sections will rarely matter, but for your information:

- Contingent** - Contingent means that some event has not yet happened. For example, you co-signed on a loan and the person who is supposed to pay it is still current on their payments.
- Unliquidated** - Unliquidated means the debt is real, but the exact amount has not been determined.
- Disputed** - Disputed means you and the creditor do not agree on the terms or amount of the debt.

Here are examples of Schedules D, E and F:

<b>Schedule D. Creditors Holding Secured Claims</b>						
<b>Creditor's Name and Address</b>	<b>Co-Debtor</b>	<b>H/W/Joint/Comm.</b>	<b>Date, Nature &amp; Market Value</b>	<b>Cont/Unliq/Disp</b>	<b>Amt. of Claim w/out Deducting Value of Collateral</b>	<b>Unsecured Portion</b>
ABC Mortgage Co. 50 Main St., Anytown, NY		Joint	4/2/XX Mortgage on home		\$135,000	\$0.00
			Value: \$150,000			
Thrifty Auto Loan 456 Broadway, Anytown, NY		H	6/2/XX		\$6,000	\$0.00
			Value: \$8,000			

<b>Schedule E. Creditors Holding Unsecured Priority Claims</b>						
<b>Creditor's Name and Address</b>	<b>Co-Debtor</b>	<b>H/W/Joint/Comm.</b>	<b>Date Claim Incurred and Consideration</b>	<b>Cont/Unliq/Disp</b>	<b>Amt. of Claim</b>	<b>Amt. Entitled to Priority</b>
IRS		Joint	4/15/XX Income Tax		\$2,300	\$2,300
Mary Smith 555 Arbor Lane, Anytown, NY		H	5/9/XX Child Support		\$4,000	\$4,000

<b>Schedule F. Creditors Holding Unsecured Non-Priority Claims</b>						
<b>Creditor's Name and Address</b>	<b>Co-Debtor</b>	<b>H/W/Joint/Comm.</b>	<b>Date Claim Incurred and Consideration</b>	<b>Cont/Unliq/Disp</b>	<b>Amt. of Claim</b>	
Education Loan Co. 123 Center St. Anytown, NY		W	9/6/XX Student Loan		\$12,000	
Visa 123 Cedar Lane Anytown, NY		H	1/2/XX Credit Card		\$6,500	
Dr. David Jones 876 Maple Road Anytown, NY		W	7/3/XX Medical Tests		\$1,600	
Mary Wright 567 Main Street Anytown, NY		Joint	9/9/XX Personal Loan		\$500	

## **Schedules G & H - Miscellaneous**

Schedule G will be used if you have a lease on an apartment or car, or any other special type of contract obligation.

Schedule H should include anyone who signed on a debt with you (co-debtors).

Here are examples of Schedules G and H:

<b>Schedule G. Executory Contracts and Unexpired Leases</b>	
<b>Name and address of person on lease or contract</b>	<b>Description of lease or contract</b>
Wallace Leasing Co., 123 Main Street, Anytown, NY 11234	Apartment rental expires on 12/3/XX
Cars R Us, 456 Center Street, Anytown, NY 11234	Auto lease, 2001 Ford Taurus, expires 5/2/XX

<b>Schedule H. Co-Debtors</b>	
<b>Name and address of co-debtor</b>	<b>Name and address of creditor</b>
Mark Smith, 321 Cedar Street, Anytown, NY 11234	Mary Jones, 654 Oak Street, Anytown, NY 11234

## **Schedules I & J - What do you make and spend?**

Schedules I and J show how much you earn in monthly income from all sources and how much you pay in monthly expenses. These schedules are fairly simple to complete.

If you have substantially more income each month than expenses, it is possible that you may be required to pay some or all of your debt back in a Chapter 13 repayment plan and that you will be ineligible to file for Chapter 7 bankruptcy, so be sure to list all expenses you have.

## **Means Test Form**

This is the section of the paperwork where you must complete a means test to be sure that you qualify for a Chapter 7 bankruptcy. The means test shows the court that your filing is appropriate and that you should not be converted into a Chapter 13 bankruptcy, where some or all of your debts must be paid back.

Your bankruptcy petition preparer will give you a specific form to complete which includes questions about your income and expenses. A sample completed means test form can be found at [www.naldp.org](http://www.naldp.org).

## **Statement of Financial Affairs**

Your bankruptcy forms include questions about a number of financial issues. Many of these will not apply to you. Check the "none" box when it is appropriate. If any question does apply to your situation, simply supply the requested information.

## **Individual Debtor's Statement of Intention**

The individual debtor's statement of intention asks what you intend to do with certain property or leases that you have. The most common questions will be whether you want to keep leases on your car, house and apartment and continue paying bills on them.

### ***Reaffirmation***

If you do not want to keep any property or leases, you will indicate that you intend to surrender them on this form. If you intend to keep them, you need to reaffirm them. To reaffirm a property or lease, you will sign a reaffirmation agreement that your creditor usually provides. If you have any questions as to whether you should reaffirm property, check with the bankruptcy judge. In many states, bankruptcy judges counsel debtors before they sign the reaffirmation. Remember that when you sign a reaffirmation, it generally acts as a new contract requiring you to pay the debt.

### ***Redemption***

The individual debtor's statement of intention also gives you an opportunity to redeem your property. Redemption is the process of making a lump sum payment to your creditor, allowing you to keep the property. The amount of the lump sum is the current retail replacement value of the property. For example, an individual owes \$4,000 on a car loan, but the actual current replacement value for the car is \$2,500. The individual can pay the creditor \$2,500 and keep the car.

If you have any questions regarding the issues raised in the individual debtor's statement of intention, you should consult with an attorney.

## Section IV: After You Complete Your Paperwork

The following section provides information on the steps you take once you have completed your paperwork. This includes filing your papers, attending your first creditors' meeting and getting your debts discharged.

### **Filing Your Papers**

When your Chapter 7 bankruptcy paperwork is completed, you will need to sign your name in multiple places. If you used a bankruptcy petition preparer, they will also need to sign the documents. Make sure that you review all final documents to assure that the information is complete and accurate.

You will need to file the following forms and payments with the court:

- 1) Certificate of completion from your consumer credit counselor.
- 2) Financial plan from your consumer credit counselor.
- 3) Completed and signed Chapter 7 bankruptcy documents, including:
  - a. Voluntary petition;
  - b. All schedules and required statements;
  - c. Means test forms;
  - d. All required bankruptcy petition preparer disclosures (your BPP will give these to you).
- 4) Filing fee of \$274.
- 5) Be prepared to file your most recent federal income tax return.
- 6) Within 45 days of filing the above paperwork at the court, you must file the following with the court:
  - a. Copies of any pay stubs received from your employer within the 60 days prior to the day you originally filed for Chapter 7 bankruptcy. If you do not have pay stubs from the last 60 days, ask your employer for copies.

- b. Statement of your monthly net income and how it was calculated. Your monthly net income is your income minus the expenses you have each month.
- c. Statement of any increase in income and expenses expected in the 12 months after your original filing date. You only need to submit increases that you already know about.
- d. If you have an Educational Savings Account or a qualified State Tuition Savings Program, you must file a record of this.

If you do not file these additional documents within 45 days of your initial filing, your case will automatically be dismissed.

## **First Creditors' Meeting**

After you file for your Chapter 7 bankruptcy at the court, you will receive a notice of your first creditors' meeting at the court. You will also receive the name of the Trustee who will be handling your case. This is **not** the financial management training you are required to attend.

You are required to send your Trustee a copy of your federal income tax return for the most recent year at least seven days prior to your first creditors' meeting.

### ***What to bring***

You must bring photo identification and your social security card to your first creditors' meeting.

### ***Who am I meeting with?***

You will be meeting with your assigned Bankruptcy Trustee. Creditors are also allowed to come to the meeting and ask you questions, but they rarely do.

### ***What happens at the meeting?***

The creditors' meeting generally lasts ten minutes or less. The Trustee will put you under oath, record the session and ask you general questions about the information in your Chapter 7 documents to determine if they are complete and accurate.

You will usually have to complete a short informational form before you meet with the Trustee. They may also ask you to submit additional information regarding your income, tax returns or other information referenced in your documents.

### ***What can they take from me?***

Any money in your checking or savings account on the day that you file your Chapter 7 bankruptcy can be taken by the Trustee. Make sure that the balance in your checking or savings account is as low as possible on the day that you file and that you do not receive automatic deposits immediately prior to filing, as this may be taken as well. It is legal to

plan for your bankruptcy in this way as long as these funds have been spent on items like housing, food, utilities, etc. before you file. Any income deposited into these accounts after you file cannot generally be taken by the Trustee.

It is also important to know that a tax refund from the state or federal government is generally considered non-exempt property. Therefore, you may want to wait until you get your refund and have spent it on necessities before you file your bankruptcy. A refund that you have not yet received can and will be taken by the Trustee.

## **Credit Education Class**

In order to get your discharge of debts, you must complete an approved financial management program and file a certificate of completion with the court. This is in addition to the consumer credit counseling you must receive before you file. You must receive a certificate of completion from both education programs.

## **Getting Your Discharge**

Approximately 90 days after you file your Chapter 7 bankruptcy, you will receive a discharge of your debts in the mail. This means that all allowable debts have been discharged and your creditors should no longer bother you. Keep a copy of your discharge in a safe place.

If you receive any motions or orders from the court regarding your bankruptcy that you do not understand, please consult with an attorney.

## Conclusion

Although the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 lengthens the process and paperwork of a Chapter 7 bankruptcy filing, it is still a viable option for many individuals and families. With the information provided here and other resources available to consumers, filing for a Chapter 7 bankruptcy should be a manageable process. Bankruptcy petition preparers are an excellent source of assistance in your local community, to the extent permitted by law. Bankruptcy petition preparers cannot provide legal advice, but they can be useful in the often daunting bankruptcy process.

We hope you have found this pamphlet helpful. It is not intended to offer legal advice, but to help you better understand the process and paperwork of a Chapter 7 bankruptcy under the new law. The pamphlet is provided by National Association of Legal Document Preparers, Inc. For more information on the Association, or for more bankruptcy resources, visit the NALDP website at [www.naldp.org](http://www.naldp.org).



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## **Addendum to NALDP's Bankruptcy Booklet How to Prepare and File a Chapter 7 Bankruptcy**

*Below are changes that have been made to the Bankruptcy Booklet since the last printing.  
Include this sheet with each hard copy of the booklet.*

**Page 3** – The following definitions have been added

Priority Claim - An unsecured debt that must be paid before any other debt, such as income taxes, student loans or past due child support

Reaffirmation -- A new agreement with a creditor to pay the debt you owe for secured property, like a car, so you won't lose it during the bankruptcy process

**Page 4** – The “Where to File” section has been is now as follows

Where

You must file your Chapter 7 bankruptcy in the state where you have lived the majority of the 180 days prior to filing. However, use the property exemptions for the state where you have lived continuously for the past two years. If you have not lived continuously in one state for the past two years, use the state where you lived for the majority of the six month period before the past two years.

**Page 8** – The median income test chart has been altered to read

a) Total monthly income for past six months	\$ 15,000
b) Divide by six to get a monthly average	\$ 2,500
c) Multiply by 12	\$ 30,000
d) Median income for sample state	\$ 45,000

**Page 8** – A text box has been added with the following information

“The means test also considers how many people are in the household, how much they contribute and other factors to determine if a person qualifies for Chapter 7.”

**Filing Fee** -- The fee for filing a Chapter 7 Bankruptcy has been changed to \$299 on the following pages:

Page 6 - Bullet number 5

Page 9 - Under filing fee

Page 17 - Bullet number 4

**Page 13** – The b and c explanations under Schedule D, E & F heading have been changed:

b) *Schedule E* – Schedule E is for unsecured priority creditors. For example, if you have outstanding taxes due to the government or owe child support, these are debts entitled to priority” under the Bankruptcy Code. They are unsecured because there is no property that secures those loans. Remember, most taxes and child support are not dischargeable in a Chapter 7 bankruptcy.

c) *Schedule F* – Schedule F is for unsecured, non-priority creditors such as credit cards, student loans and medical bills.

**Page 14** – The Schedule E & F charts have been updated:

**Schedule E. Creditors Holding Unsecured Priority Claims**

<b>Creditor's Name and Address</b>	<b>Co-Debtor</b>	<b>H/W/Joint/Comm.</b>	<b>Date Claim Incurred and Consideration</b>	<b>Cont/Unliq/Disp</b>	<b>Amt. of Claim</b>	<b>Amt. Entitled to Priority</b>
IRS		Joint	4/15/XX Income Tax		\$2,300	\$2,300
Mary Smith 555 Arbor Ln Anytown, NY		H	5/19/XX Child Support		\$4,000	\$4,000

**Schedule F. Creditors Holding Unsecured Non-Priority Claims**

<b>Creditor's Name and Address</b>	<b>Co-Debtor</b>	<b>H/W/Joint/Comm.</b>	<b>Date Claim Incurred and Consideration</b>	<b>Cont/Unliq/Disp</b>	<b>Amt. of Claim</b>
Education Loan Co. 123 Center St., Anytown, NY		W	9/6/XX Student Loan		\$12,000
Visa 123 Cedar Lane Anytown, NY		H	1/2/XX Credit Card		\$6,500
Dr. David Jones 876 Maple Road Anytown, NY		W	7/3/XX Medical Tests		\$1,600
Mary Wright 567 Main Street Anytown, NY		Joint	9/9/XX Personal Loan		\$500

3/21/2007