

**How to Beat the System
Or
How to Side Step the Bankruptcy Means Test**

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If you have looked into filing for bankruptcy you have likely come across something known as the Means Test. Back in 2005 Congress amended the laws related to bankruptcy and put in place new laws that they thought would force more people into a chapter 13 bankruptcy rather than a chapter 7 bankruptcy.

Simply put, the means tests looks at your household size and your monthly income and compares this to the typical income of received by a household of your size in your state. If you make more than the typical household of your size, then there is a good chance you will need to file a chapter 13 bankruptcy. If you make less, you will likely be able to file chapter 7.

Why Does it Matter?

Many people want to file a chapter 7 bankruptcy because it has two distinct advantages over a chapter 13 bankruptcy: first, it is shorter...MUCH shorter. The typical chapter 7 bankruptcy case in Arizona takes about 4 to 6 months. Chapter 13 cases are a minimum of 3 years long and typically about 5 years long.

Next, a chapter 7 bankruptcy will eliminate most of your unsecured debts, such as credit cards, medical bills, etc. In a chapter 13 bankruptcy you are required to pay a portion of these debts back.

So what if you want to file a chapter 7 bankruptcy but make too much money? There are loopholes of sorts that will permit those people who make more than is allowed to still file a chapter 7 bankruptcy.

The Business Debts Exception

If more than half of your debts are business related, you don't have to complete the means test. For many small business owners this means that you can file for chapter 7 even if you wouldn't qualify based on income.

The thing to remember here is that you must include your mortgage debt into the equation. For instance, if you have \$300,000 of debt, at least \$150,000.01 of it must be related to your business. If it is, then you can file a chapter 7 bankruptcy.

Military Exception

The next exception applies to disabled veterans, reservists, and members of the National Guard.

Disabled Veterans

Disabled veterans are not required to complete/pass the means test so long as the debts that are being discharged were incurred primarily while you were on active duty or as part of homeland defense. If you meet these requirements you will likely qualify for a chapter 7 bankruptcy even if you make more than the current limits.

Reservists and National Guard Members

If you served as a Reservist or a National Guard member after September 11, 2001 and served for at least 90 days, then the Means Test will not be applicable for your situation.

I would be happy to meet with you to determine if you qualify for a chapter 7 bankruptcy. My consultations are always free. Give me a call at 480-420-4028 or shoot me an email at john@skibalaw.com.