

There are many factors to consider when deciding whether or not to file for bankruptcy in Arizona and California. Read this blog for answers to some of the frequently asked questions.

Q: Can you keep your primary residence in a Chapter 7, 11, & 13 Bankruptcy?

A: A primary residence is a secured debt and is very rarely forfeited in bankruptcy proceedings unless the borrower is unable to reaffirm the loan with the mortgage lender. In most cases the homestead exemption will protect residence; this does not apply to foreclosure. You can also keep your home as long as it was not listed as one of the mortgage discharge.

Q: Can you hold onto additional properties such as investment properties?

A: You can keep your property that you can exempt which depends on your state. Any property worth more than the exemption has to be redeemed (the trustee is paid the difference between the value of the property and the exemption) or given to the trustee.

Q: What are the Bankruptcy Exemptions for Arizona?

A: Arizona is an “opt-out” state and has taken advantage of a provision in the bankruptcy law that permits each state to adopt its own exemption law in place of federal exemptions. Arizona exemptions include:

- Homestead (this can be defined as interest in real property upon which debtor’s house sits, condominium or cooperative, mobile home, or mobile home in which debtor resides plus the land upon which the mobile home is located in the amount of \$150,000. May not be doubled by husband and wife)*
- Personal property (husband and wife may double all personal property exemption)*
- Money benefits or proceeds (life insurance proceeds not to exceed 20,000)*
- School equipment*
- Fire Fighting Equipment*

- *Public property*
- *Tools and equipment*
- *Wage, salary, benefits (75% of disposable earnings; not applicable in chapter 13)*
- *Waiver*
- *Pension*
- *Public benefits*

Q: What are the California Bankruptcy Exemptions?

A: Note - A Married Couple May Not Double the Exemptions

- *Homestead (real or personal property you occupy including mobile home, boat, stock cooperative community apartment, planned development or condo to \$50,000 if single and not disabled; \$75,000 for families if no other member has a homestead-if only one spouse files, may exempt one half of amount if home held as tenant in common; \$125,000 if 65 or older, or physically disabled; \$100,000 if 55 or older, single and earn under \$15,000 or married and earn under \$20,000 and credits seek to force the sale of your home; sale proceeds exempt for 6 months after received-husband and wife may not double.*
- *Personal property*
- *Insurance (disability benefits)*
- *Miscellaneous(business or professional license)*
- *Pensions*
- *Public Benefits (crime victim compensation)*
- *Tools of trade (up to \$1,750 at this time)*
- *Wages (minimum of 75%)*
- *Wild card (\$925 of any property)*

Q: What are the ramifications of filing bankruptcy in business; specifically dealing with business assets?

A: Some of the disadvantages of filing bankruptcy is you have to pay all attorney fees for your firm and your creditors. The judge has oversight of your firm. You run the day-to-day operations, but the judge makes all the big decisions. The judge will order the liquidation of the attorney fees and court fees since the most business cannot afford them. The business bankruptcy judge and the appointed trustee examine the actions of the firm's leadership before and during bankruptcy which can lead to civil penalties and possibly arrest and imprisonment.

Q: What are things to be cautious of before filing bankruptcy?

A: Below is a list of things to keep in mind before filing bankruptcy

- *All creditors are listed on the schedule*
- *Homestead-property and any mobile or stationary structures may not exceed \$150,00 (check state requirement for specific exemption).*
- *Car-maybe exempted up to \$5,000 individually or \$10,000 jointly or due to disability (if your car is paid off, you cannot have more than \$5,000 to have it exempt)*
- *Money-Life insurance may not exceed \$20,000 to surviving spouse or child.*
- *Tools and Equipment-primarily used and necessary to carry on the commercial activity, trade, business, or profession of the debtor or their spouse may not exceed \$2,500. Does not include motor vehicle used primarily for personal/family use.*
- *Tax refunds will be handed over to trustee*
- *Bank account must have an ending balance of \$150.00 or less*
- *Any other bankruptcy should not be filed previous-within one year.*

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To determine whether bankruptcy is the right option for you or your business, contact the experienced California and Arizona-licensed bankruptcy attorneys of Andrews Law, PLC. Call 480-237-9756 today to schedule your confidential consultation.