



Means Test Decides Whether You Can File Chapter 7 Bankruptcy if You Exceed Illinois' Median Income

**by
Richard Fonfrias, J.D.
Chicago's Financial Rescue & Bankruptcy Lawyer
Fonfrias Law Group, LLC**

If you are experiencing serious financial difficulties in Illinois and your income is less than Illinois' median income, then you can file a Chapter 7 bankruptcy, if you meet other minimum criteria.

But if your income is greater than the State's median income, then you must take a means test to see if you can qualify to file Chapter 7 bankruptcy. Here's why:

Under the old version of the Bankruptcy Code, trustees and bankruptcy judges used their own discretion to say who could and could not qualify to file a Chapter 7 bankruptcy. As a result, they handed down a broad range of inconsistent rulings, which caused consumers to "shop around" for the best jurisdiction in which to file their bankruptcy.

In the new Bankruptcy Code, Congress included a means test, which determined whether a debtor had the ability to repay his creditors. If he could satisfy his debts, then a Chapter 13 repayment plan was appropriate. If not, then he qualified for a Chapter 7 liquidation.

The focus of a Chapter 13 bankruptcy is a realistic repayment plan. Your plan must show that you can pay a percentage of your unsecured debts each month after paying your monthly expenses. The means test calculates your monthly disposable income to decide whether a Chapter 13 bankruptcy will work for you.

The key to your repayment plan is that your expenses must be "reasonable." IRS gives its agents reasonable expense guidelines that they can use when structuring repayment plans for debtors behind in their taxes. In most cases, the Bankruptcy Code follows the IRS guidelines, allowing for small variations. For instance, the guidelines allow you to increase your food and clothing expenses by five percent, providing you can show that the increase is realistic and necessary.

Sadly, bankruptcy trustees do not have much room for variation in actual expenses. This is because Congress created the means test to clearly establish who qualifies for a Chapter 7 and a Chapter 13 bankruptcy. The only way to accomplish this was with strict expense guidelines and income-to-expense ratios.

Besides your ongoing monthly expenses, you may subtract from your income expenses for health insurance, private schooling and elder care. Also, you may deduct payments on secured loans, such as on your home and car.

If you are thinking for declaring bankruptcy in Illinois and have questions about whether you can qualify for a Chapter 7 or Chapter 13 bankruptcy, please call me, Chicago bankruptcy lawyer Richard Fonfrias at 312-969-0730.

You're Invited to Call or E-mail.

"If you have questions about bankruptcy, foreclosure, credit card debt, loan modifications, tax liens or other financial problems, please send your e-mail today to

rich@chicagomoneylawyer.com

RICHARD FONFRIAS, J.D.

Chicago's Financial Rescue & Bankruptcy Lawyer

Money problems solved. Peace of mind protected.

Founder & Managing Partner

FONFRIAS LAW GROUP, LLC

First National Plaza ❖ 70 West Madison Street, Suite 1400 ❖ Chicago, Illinois 60602
Telephone 312-969-0730 ❖ Facsimile 312-624-7954 ❖ www.chicagomoneylawyer.com

