

How Often Can I File For Bankruptcy Protection?

Question: I filed for Arizona Chapter 7 bankruptcy in December of 2000. Is it possible to file for bankruptcy protection again?

Answer: Yup.

First, let me point out that you can file for bankruptcy as often as you like. However, the BAPCPA changes to the bankruptcy code restrict your ability to obtain a discharge in cases of serial filing. This means that, even if you successfully file a bankruptcy petition within the below specified timeline, you have not circumvented the timeline minimums set forth below. You will not receive a discharge in a bankruptcy case that was filed within the minimum time frame.

Now let's move on to the discussion of how often an individual can file for bankruptcy protection. You are correct in your concern that the bankruptcy code limits the frequency with which a potential debtor can file for bankruptcy protection under chapter 7. Fortunately, that time frame is 8 years. This means that a potential chapter 7 bankruptcy debtor is allowed to file under chapter 7 of the bankruptcy code every 8 years.

Another important thing to remember is that the number 8 applies only to consecutive chapter 7 bankruptcy filings. The time period is different when you consider filing for chapter 13 bankruptcy protection subsequent to filing for chapter 7 protection. In this case, an individual can file for chapter 13 bankruptcy protection 4 years after filing for chapter 7.

For completeness, let's consider an alternate scenario. What if a debtor had previously filed for chapter 13 bankruptcy protection, and was now interested in filing for chapter 7 or chapter 13 bankruptcy? A second chapter 13 bankruptcy can be filed 2 years from a prior Chapter 13 filing and a chapter 7 bankruptcy can be filed 6 years from a prior chapter 13.

As a final note, notwithstanding the above, you can be barred from filing a new case for 180 days after a case is dismissed, if the dismissal is either because you willfully failed to abide by an order of the court or to properly prosecute the case, or was at your request after a creditor requested relief from the automatic stay.