

Chapter 7 Bankruptcy in Philadelphia

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The [Bankruptcy Code](#) requires individuals to pass the “means test” before they can file a [Chapter 7](#) case. The test was established by the [2005 amendments](#) to the Bankruptcy Code and it is used to determine if a debtor is eligible to file a Chapter 7 case.

What is the effect of the test? If the debtor does not pass the test, the court assigns a “presumption of abuse” designation to the filing. This means that the debtor has the burden to prove that his filing is not an abuse of the bankruptcy system in order to proceed with the Chapter 7 filing.

What is the test? The means test is a formula applied by the court to debtors with personal debt, who make more income than the applicable state’s median income. There are numerous expenses (including basic living costs) that the debtor is allowed to deduct from his income. When all of the deductions have been made, the remaining amount is multiplied by 60. If the total amount left is under \$10,000 or over \$6,000, and it also amounts to 25% or more of the debtor’s non-priority, unsecured debt, the court presumes the filing is an abuse of the system.

What can a debtor do if he doesn’t pass the test? A debtor can challenge the “presumption of abuse” designation by proving “special circumstances.” This means that the debtor must explain to the court why his income falls within the abuse range, but due to special circumstances, his Chapter 7 filing is still warranted. If the court agrees with the debtor, the Chapter 7 case can proceed.

If you are interested in filing Chapter 7 bankruptcy, you should ask a qualified lawyer if you qualify under the means test.

The attorneys at [McDowell Riga Posternock PC](#) provide New Jersey and Pennsylvania residents with experienced legal representation in bankruptcy matters. We assist consumers and business clients with significant debts in filing Chapter 7, Chapter 11, and Chapter 13 bankruptcies. If you are considering filing for bankruptcy protection, or you want to discuss options for dealing with your debt, please contact us at [856-528-3389](tel:856-528-3389). We also handle matters dealing with family law, consumer fraud, estate planning, real estate, personal injury, and debt collection.