

## 7 Benefits of Chapter 7 Bankruptcy

By John N. Skiba, Arizona Bankruptcy Attorney

[www.skibalaw.com](http://www.skibalaw.com)



For most people who are looking to file bankruptcy the choice really comes down to filing a [Chapter 7 bankruptcy](#) or a [Chapter 13 bankruptcy](#). In this article I would like to go over seven reasons why Chapter 7 can be preferable over a Chapter 13. Not all bankruptcy attorneys agree with me on this, and in fact there is a reputable attorney back East that has put a list of 50 reasons why a Chapter 13 is preferable, but I think in most situations people are much happier with the benefits offered in a [Chapter 7 bankruptcy](#) case.

### **#1 - Chapter 7 is a Much Shorter Process**

In Arizona the typical Chapter 7 bankruptcy lasts about five to six months from the day the case is filed with the court. That seems like a long time but is actually a pretty quick proceeding in federal court world. Also, it is a fraction of the time you will spend in a Chapter 13 bankruptcy. Chapter 13 cases are a minimum of three years and a maximum of five years. Chapter 7 is designed to get you in, get you out, and on with life.

### **#2 - There is No Pay Back on Most Unsecured Debts**

In bankruptcy different debts are treated differently. Essentially your debts are broken down into two groups: secured debts (i.e. houses, cars, anything with collateral) and [unsecured debts](#) (i.e., credit cards, medical debts, personal loans). There is also a sub-category of unsecured debts that are given special treatment. Student loans and taxes fall into this sub-category. In a [Chapter 7 bankruptcy](#) case your unsecured debts, with the exception of student loans and most taxes, are completely discharged/eliminated. There is no payment plan. They are eliminated 100%.

Compare this to a Chapter 13 case where you are required to pay back (albeit a small amount) of your unsecured debts over the three to five year period I mentioned above.

### **#3 - Your Future Income Is Not Part of Your Bankruptcy**

In a Chapter 7 bankruptcy the court is most concerned with the amount of income you have earned in the six months prior to your bankruptcy filing. The income you receive going forward after your case is filed is

not part of what is called your "bankruptcy estate." There are a couple of exceptions, such as money you receive from an inheritance within six months after your case is filed, but generally what you earn after your case is filed is yours to keep.

In a Chapter 13 bankruptcy the income you receive after your case is filed is property of your bankruptcy estate and you will be required to turn over your monthly disposable income to your creditors.

#### **#4 - You Can Usually Keep Your Assets and Eliminate Your Debt**

One benefit a Chapter 13 bankruptcy does provide is that you will retain possession of all of your assets. Some people don't like Chapter 7 cases because there is a risk that you could lose some of your property through the Chapter 7 process. While it is true that in a Chapter 7 case there is a risk of losing non-exempt property to your creditors, in most cases nothing is lost. The numbers I have seen show that 94% of Arizona Chapter 7 bankruptcy filers do not lose a thing through the process.

This is because Arizona's exemption laws are pretty good. Most people have heard of exemption laws like the homestead exemption, which protects up to \$150,000 of equity in your home. Arizona also has exemption laws that protect your household goods, wedding rings, cars, and retirement accounts. Most people who file Chapter 7 don't lose a thing and get the benefit of the complete discharge of all of their debt and the shorter process.

#### **#5 - The Legal Fees for Chapter 7 Bankruptcy are Less**

In a Chapter 7 case you are hiring an attorney for a five to six month legal process. In a Chapter 13 case you are hiring an attorney for up to five years. Because of this you are going to pay more for a Chapter 13 case than you will a Chapter 7 case. [I charge \\$1,700 plus costs for a typical Chapter 7 bankruptcy while a Chapter 13 bankruptcy will cost you \\$4,000 plus costs.](#)

#### **#6 - There is No Monthly Payment or Paperwork to Worry about in Chapter 7**

As I mentioned above in #2, in a Chapter 13 case you are required to pay your monthly disposable income to the court for the benefit of your creditors. In Chapter 13 we put together a payment plan and you are responsible for making sure that the payment is paid on time each month. If you happen to be self-employed or own your own business you are also required to submit a monthly profit and loss statement detailing your monthly income. You must submit these payments and monthly reports for the entire five year process. If you stop making these payments or submitting these reports your case can be dismissed.

In a Chapter 7 case, because there is no pay back of debts there is no monthly payment. Further, because your future income is not part of your bankruptcy there are no monthly reports that need to be completed.

#### **#7 - You Will Recover More Quickly from a Chapter 7 Bankruptcy**

Most people are surprised that their credit score has actually increased 12 months after their Chapter 7 bankruptcy case is complete. Further, most people are unaware that if you have good payment history after your Chapter 7 case, [FHA can qualify you for a home loan](#) within two years of your bankruptcy case

being completed. While you can also qualify for FHA loans while in your Chapter 13 case, the reality of it is you are going to have a more difficult time getting financing while you have an active bankruptcy case, and in Chapter 13 you will have an active case for three to five years.

There is no question that filing a Chapter 7 case hurts your credit, but it is a static event and every day you get further away from it the more likely you will be able to obtain new financing if you need it.

Some people will not have a choice because they [won't qualify to file a Chapter 7 bankruptcy](#) based upon their income. However, I evaluate all clients for a Chapter 7 case and if possible I will often recommend it even if it means losing some minimal property.

If you are dealing with debt problems and would like to discuss the benefits of a Chapter 7 bankruptcy filing I offer a free consultation where we can meet and determine if it is a good option for you. I can be reached at (480) 420-4028 or via email at [john@skibalaw.com](mailto:john@skibalaw.com) .