Do you live in Virginia and have significant equity in your home? Is the amount of equity in your home considerably more than Virginia's meager $5,000 homestead exemption? Are you current on your mortgage(s), but are overwhelmed by unsecured debt (i.e. credit cards, medical bills, and personal loans)?

If you are considering filing for bankruptcy, then it sounds like your only option will be a chapter 13 bankruptcy filing. And if that is the case, you need to be aware of something called the liquidation test.

But first, what is a chapter 13 bankruptcy? It is an arrangement whereby you make monthly payments to your unsecured creditors for a period of 3 or 5 years. This arrangement is referred to as a chapter 13 plan. Payments are typically a small fraction of your unsecured debt. In return for making these partial payments, any balance that exists at the end of a 3 or 5 year period is forgiven by the court. The amount of monthly payment is usually determined by the means test.

However, the determination of how much your monthly payments will be in a chapter 13 payment plan does not end there. Unfortunately, the liquidation test must be taken into consideration as well. And what is the liquidation test? It is a mathematical formula used by the bankruptcy courts whereby the more equity you have in your home, the more you will be expected to pay into the chapter 13 plan. The principle behind the liquidation test is that the total amount you pay in a Chapter 13 bankruptcy plan needs to be at least as much as you would have paid had you filed for chapter 7 bankruptcy. As a reminder, in a chapter 7, you must surrender all of your non-exempt assets. Your equity is your primary asset.

So to use sophisticated legal jargon here, what the bankruptcy law is saying in this situation is: Hey buddy, if you have been paying your mortgage for a number of years and are sitting on $100,000 in equity don't go thinking that you can purposefully file for chapter 13 and pay only say, $10,000 during the next 5 years. Had you filed for a chapter 7 bankruptcy your unsecured creditors would have gotten most, but not all, of your $100,000 in equity so that is what the court will expect from you to contribute into the chapter 13 plan. So what is the lesson here? Well, for those seeking to file bankruptcy, having equity in your Virginia home is a disadvantage, to put it mildly.

And as far as how can you avoid dealing with the dreaded liquidation test which will expose all of your equity?

• Don't live in Virginia. I understand that this tip might come to you a little late, but I thought I would still throw it out there for people considering buying a home in the tri-state area. Buy your home and live in Washington, DC. The district is a lot more bankruptcy friendly then their neighbor, Virginia. Please see my previous blog titled Washington, DC vs. Virginia Bankruptcy Consideration.

• Enough with being single – go get married. See my previous blog Bankruptcy: Protecting Your Marital Home.

• Or perhaps the most reasonable and responsible course of action you can take is to file for bankruptcy now, rather than later. The current value of your property probably took a nose dive with the economy. If filing for bankruptcy is inevitable, seize the moment now while you do not have as much equity in your home.