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Some Basics of Bankruptcy: Chapter 7 and Chapter 13

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One of the conundrums facing people mulling for bankruptcy is what protects their assets best. In fact, bankruptcy court does not care if consumers all along have been "good Samaritans" and because of income reduction or job loss they have been force to file for bankruptcy. The more assets such people have, the more creditors get paid. Consequently, it behooves such individuals to ensure they understand the legal ramifications of filing for bankruptcy and what chapter 7 and chapter 13 entail.

SOME CAVEATS ON FILING FOR BANKRUPTCY

Filing for bankruptcy adversely affects filer's FICO credit score, irrespective of whether it is chapter 7 or chapter 13. In fact, a reduction of *UP TO* 240 points for people with 780 FICO score and a reduction of UP TO 150 points for people with FICO score of 680 could reasonably be expected.

1. SOME BASIC CHARACTERISTICS OF CHAPTER 7

A. WHO SHOULD USE IT

Usually, people with no assets such as home or car to lose OR people who only have enough to cover daily expenses. However, such people have no money to pay for a payment plan.

B. HOW IT IS USED

Non-exempt assets are sold, proceeds are given to creditors and most debts are forgiven.

2. SOME BASIC CHARACTERISTICS OF CHAPTER 13

A. WHO SHOULD USE IT

Usually, people with some assets who make some money for daily expenses and have some leftover to pay creditors.

B. HOW IT IS USED

A payment plan is set up through the court for, usually, less than the amount owed. Payment are made over three to five years. The payments MUST equal at least the amount of money creditors would have received, if you filed for chapter 13.

3. SOME BASICS ON SOME ASSETS TO BE PROTECTED IN BANKRUPTCY

A. HOME

In general, holding onto your home depends on the state you live in and the equity in your house. If a house is worth less than its mortgage, i.e. there is no equity, the owner can keep it as long as the owner stays current on the mortgage.

If the homeowner has equity in the house, then most states allow the homeowner to keep some portion of the proceeds of trustee's sale. Over such limit, the proceeds are applied to the outstanding debt and paying the trustee. For instance, in CA the exemption limit is up to $175,000.

B. CAR

In general, car is like a home in some respect for bankruptcy purposes. This means, in most states, even if you owe more on the car than its value, you can keep it if you can keep your payments current. Free and clear car owners may keep the car IF it is worth less than the state exemption. If you have some equity in the car and a loan, your car is sold and you will receive the equity up to the amount of the exemption.

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