WHAT IS CHAPTER 13 BANKRUPTCY?

Chapter 13 is a consumer debt reorganization option. It allows debtors to restructure their payments by combining many debts into a "plan" and paying just one monthly payment to the Chapter 13 Trustee for all the debts included in the plan. Depending on your income, the kind of debt you owe and your debt levels, it is possible that not all of your debt will have to be repaid under the plan. Regular mortgage payments will continue to be made directly to the creditor "outside" the plan. If you are behind on your mortgage, that arrearage can be included in the plan, though the future payments due under the loan must continue to be made separately. All property will stay with the debtor, who then makes regular payments to the trustee out of future income to pay all or a portion of the debt over the life of the plan.

Chapter 13 is usually appropriate for people who have regular income but who have fallen behind on secured loans (such as cars or houses) and need to catch up before repossession or foreclosure. It may also be appropriate when someone has non-exempt property that cannot be protected in a Chapter 7 bankruptcy, or if someone has sufficient disposable income to pay a significant portion of their debt over time. Many factors go into determining if a debtor qualifies for or should pursue a Chapter 13 filing and you should discuss this option with a qualified bankruptcy attorney. It usually costs more to file for Chapter 13 than for Chapter 7 because there is considerably more involved in a Chapter 13, but often you can pay part of the cost of filing through the plan itself. If you have regular income and non-exempt assets you want to keep, Chapter 13 might be the right answer for you.

In Chapter 13, even though a debtor keeps his property, exempt property is still used to determine if a "plan" complies with the Bankruptcy Code. Creditors are entitled to receive at least as much through the Chapter 13 plan as they would have under a Chapter 7 liquidation. Therefore, a debtor's payments into a Chapter 13 plan must provide at least as much to creditors as they would have received through liquidation in Chapter 7 of non-exempt property.

When you come to your appointment, bring a list of your creditors and what you believe you owe each of them. You should also make a list of your monthly expenses and your assets. If it is determined that a bankruptcy filing is right for you, you will have to have all those numbers – and more – listed anyway.

Chapter 13 bankruptcies can last up to 5 years in the payment stage. During that time, all your assets belong to the Bankruptcy Estate that is formed upon filing. The Bankruptcy Trustee must agree with the sale of any property and will require copies of your tax returns and payment of refund amounts over $1200 to pay creditors.