

Chapter 7 Bankruptcy

How it can discharge credit card debts, medical bills, and other unsecured debts

The Chapter 7 Process

- Chapter 7 of the Bankruptcy Code (Title 11 of the United States Code) allows the discharge of most unsecured debts in a Federal legal process that usually takes 4-6 months. The debtor must disclose all of his or her assets, liabilities, income, and expenses on the bankruptcy petition and, moreover, must submit to an examination by the trustee. A discharge is then entered a few months later.



The Overwhelming Majority of Chapter 7 Debtors Never Actually Need to Go to Bankruptcy Court

All Chapter 7 debtors are required to attend the Meeting of Creditors which is a court-supervised hearing but is conducted by the trustee. For Chester County debtors, these are held in West Chester, PA. Only rarely must debtors go to the actual Bankruptcy Court in Philadelphia, PA; for example, if debts are “reaffirmed” or if an objection to discharge is filed, then a court appearance is usually required.

Exemptions

Most people who file Chapter 7 keep everything they own because the Bankruptcy Code and Pennsylvania law allow “exemptions” which when strategically applied allow most people’s homes and automobiles to be exempted as well as retirement accounts. Property held by married persons in tenancy by the entirety may be exempted in certain situations. Indeed, approximately 98% of Chapter 7 bankruptcy cases are “no asset” cases which means that the debtors kept everything and received a discharge.



Discharge of Debts

The discharge is an Order entered by the Bankruptcy Court which enjoins any collection of the debts listed in the Chapter 7 case. Except for certain debts that are nondischargeable, the discharge essentially wipes out the personal liability of the debtors' indebtedness included in the bankruptcy.

DEBTS NOT DISCHARGED

There are various debts that are nondischargeable in bankruptcy which means that the Chapter 7 bankruptcy discharge does not enjoin collection of those debts. A nonexhaustive list of these types of debts include: (1) most unpaid federal and state income taxes within three years of the filing (taxes owed where no return was filed are always nondischargeable) ; (2) criminal fines or court-ordered restitution; (3) student loans; (4) domestic relations obligations such as child support or spousal support; (5) drunken driving liability ; (5) credit card purchases that were made very recent to the bankruptcy filing; (6) breach of a fiduciary duty; (7) fraudulently incurred debts; (8) debts arising from a false credit application and (9) liability on an intentional tort against a an entity or property of an entity that is willful and malicious. There are other nondischargeable debts not enumerated above so I will advise you of them depending on your situation, e.g., back pre-petition condominium association fees are dischargeable while post-petition condo fees are not.