

Bankruptcy Client Checklist

The purpose of this article is to provide general information about bankruptcy to consumers, and the author encourages consumers to meet with an attorney for more specific information.

Congress has been given power under the Constitution to establish the Bankruptcy Code. As such, bankruptcy law is federal law. Congress allows for five types of bankruptcy, Chapter 7, Chapter 9, Chapter 11, Chapter 12, and Chapter 13. Each type of bankruptcy has its own purpose and guidelines: a Chapter 7 is used by individuals (consumers) and is referred to as a “liquidation” because they must sell off any thing of value to pay off creditors; a Chapter 9 is used by insolvent municipalities to adjust for debt; a Chapter 11 is used by business owners, and the court and creditors must approve the payment plan to repay the creditors; a Chapter 12 is similar to Chapter 13, but is used by family fishermen and farmers; and a Chapter 13 is used by consumers and businesses who want to keep their assets and are placed on a payment plan to repay their creditors.

Although a consumer client may choose a Chapter 7, he or she may not qualify. Ultimately, the bankruptcy trustee appointed by the court will decide which bankruptcy filing is appropriate under the Bankruptcy Code. The trustee makes this determination based, in part, upon documentation the consumer provides the court. Attorneys often want to review several items before filing with the US Bankruptcy Court. Below is a list of items that our law firm requires, but other law firms may require more or less items based on their practice:

- Social Security Number: a social security card is preferred, and the attorney likely will want a copy of the card.
- Picture identification: a driver’s license is preferred, and the attorney likely will want a copy of the license.
- Last 2 years tax returns: the federal and state returns are needed, and the attorney will review the W-2 or 1099 information.
- Last 3 months bank statements: the trustee will want to review the bank statement showing the date of the bankruptcy filing.
- Last 6 months pay stubs: the trustee will determine whether a Chapter 7 or Chapter 13 is appropriate based upon set income guidelines in the Bankruptcy Code. It is imperative that the consumer provide pay from all sources, including the a non-filing spouse
- Property tax assessment: the Bankruptcy Code allows for a certain amount of equity in a consumer’s house. The trustee uses the property tax assessment and any recent appraisal to help determine how much equity a house has.
- Vehicle registration: automobiles, boats, motorcycles, and other vehicles need to be provided. The trustee will perform a vehicle registration search and will have the vehicles appraised and compare their value with their accompanying loan amounts.
- Court papers relating to the bankruptcy: the attorney will want to know of any judgments, complaints, liens, garnishment orders, and other items.

An attorney may request additional items for review, such as if the consumer is a business owner or sole proprietor. But the checklist above gives some insight into what the attorney and eventually the trustee may need to review to determine which bankruptcy option complies with the Bankruptcy Code.