

ADVANTAGES AND DISADVANTAGES OF FILING CHAPTER 7 BANKRUPTCY

For an individual interested in their options for filing bankruptcy, there are two primary options, Chapter 7 and Chapter 13. This article will cover the advantages and disadvantages of filing a Chapter 7 bankruptcy. Chapter 7 bankruptcy, also known as a liquidation or asset distribution, involves, as the name implies, liquidation or selling of all the debtor's non-exempt assets to satisfy claims of debtors.

Advantages:

- 1) Finality: in Chapter 7, if a debt qualifies to be discharged, it will be completely discharged and the collection efforts on that debt cease.
- 2) Flexibility: No minimum or maximum amount of debt is required to file a Chapter 7 bankruptcy.
- 3) Freedom: once the bankruptcy is commenced, wages and earnings brought in after the bankruptcy are yours to keep; no creditor discharged in bankruptcy has a claim on that money.
- 4) Fast: a Chapter 7 can be completed in a matter of months (as opposed to years in a Chapter 13)
- 5) In Georgia, \$10,000 in equity in your home (\$20,000 if joint filing) can be exempt, as well as \$3,500 in vehicle equity and certain personal and work property

Disadvantages:

- 6) Non-exempt property must be sold, so it will be lost.
- 7) Not all debts are discharged. Debts such as alimony, or debts associated with fraud or criminal activity are not discharged.
- 8) Foreclosure is only temporarily stalled until after the bankruptcy is closed.
- 9) Withdrawing a Chapter 7 claim is very difficult once started
- 10) Your credit will be tarnished
- 11) If you are a co-signor with a non-filing party, that party may have to pay for the whole loan
- 12) You may not file Chapter 7 if you have previously filed bankruptcy less than 6 years ago.
- 13) Not everyone qualifies: you must show pass the means test to qualify for Chapter 7; if you do not qualify, your case may be dismissed or forced into Chapter 13.

It is crucial that you meet and discuss all aspects of your bankruptcy case with a qualified bankruptcy attorney prior to filing. This discussion will allow you to consider the pros and cons of bankruptcy and set you on the correct path.

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