

How Is Non-Exempt Property Handled in Chapter 7 Bankruptcy

If you are filing for chapter 7 bankruptcy protection, you are probably aware that bankruptcy law outlines a specific list of exempt property. This means that, as a chapter 7 bankruptcy debtor, you are allowed to retain property classified as exempt while filing for liquidation bankruptcy. However, this means that all non exempt property is vulnerable to inclusion in the bankruptcy estate. I am commonly asked to explain the procedure behind handling non-exempt property in bankruptcy.

When a bankruptcy attorney prepares your chapter 7 petition, they will include a detailed list of your personal property. They will make every attempt to protect these assets by applying Arizona bankruptcy exemptions to the property listed. The list is reviewed by the assigned chapter 7 bankruptcy trustee, who will determine whether the debtor is in possession of significant non-exempt property.

Let's assume you listed an asset on your bankruptcy petition that cannot be shielded by an Arizona bankruptcy exemption. The bankruptcy trustee may or may not decide to recover this asset as part of the bankruptcy estate. If the item has little resale value, or would be difficult to recover and sell, the trustee may decide to do nothing. This means that you get to keep the item.

If the trustee believes the sale of said asset would benefit the bankruptcy estate, they may request that you surrender the item. The cutoff value that a trustee will consider an asset worthwhile to pursue is a bit of a bankruptcy grey zone. While I have seen trustees ignore assets worth several thousand dollars, I have also seen a trustee pursue an asset worth approximately \$250, and located two states away.

What happens if the trustee requests I surrender a non exempt asset to the bankruptcy estate. At this point, you have two options. The first option is to relinquish the item to the trustee for inclusion in the bankruptcy estate. The trustee will then sell the item at an auction sale, and include proceeds as part of the bankruptcy estate. This is eventually distributed among creditors.

The second option is to purchase the item from the trustee. It may seem strange to 'purchase' an item you already own, but remember that this asset is considered property of the bankruptcy estate. Some trustees will allow you to purchase the item directly, usually at a discount from estimated resale value. Other trustees allow you to place a bid on the item, which allows it to remain in your possession until time of auction, at which time the bid is entered on your behalf. However, you must still attend and bid at the auction, to ensure that you win the item.

The proper application of [Arizona bankruptcy exemptions](#) is one area in which it is helpful to consult with an experienced bankruptcy lawyer. As always, I am available for free bankruptcy consultations at my Phoenix and Casa Grande locations.