

BANKRUPTCY BEAGLE

ACCURATE AND LOW COST INFORMATION ABOUT BANKRUPTCY



CAN YOU BUY A CAR BEFORE FILING CHAPTER 13 BANKRUPTCY

ANSWER, YES; BUT WITH SOME WORDS OF CAUTION. FIRST, CHAPTER 13 BANKRUPTCY IS A REPAYMENT PLAN; THE GOAL OF CHAPTER 13 IS TO ALLOW THE INDIVIDUAL OR FAMILY TO GET BACK IN CONTROL OF THEIR FINANCES. THE MAIN QUESTION IN CHAPTER 13 IS "HOW MUCH IS THE MONTHLY PAYMENT?"

AT SOME POINT THE DEBTOR FIGURES OUT THAT THERE IS A CERTAIN AMOUNT OF DISPOSABLE INCOME THAT WILL BE PAID INTO THE CHAPTER 13 PLAN, AND THAT MONEY GOES TO CREDITORS. AS SUCH, IF THE DEBTOR CAN FIGURE OUT A WAY TO RAISE HER LEGITIMATE EXPENSES, THE AMOUNT PAID INTO THE CHAPTER 13 PLAN GOES DOWN AND THE DIFFERENCE GOES TO HER BENEFIT AND NOT HER CREDITORS. THE REASONING GOES; SINCE I AM GOING TO HAVE TO PAY THIS MONEY ANYWAY, MIGHT AS WELL GET THE MOST BANG FOR THE BUCK.

ONE FREQUENTLY POSED SOLUTION IS FOR THE DEBTOR TO BUY A NEW OR NEWER CAR, FINANCE IT, ON THE EVE OF FILING CHAPTER 13 BANKRUPTCY. IS THAT ALLOWED? BUYING A CAR PRIOR TO CHAPTER 13 BANKRUPTCY CAN BE A LEGITIMATE CASE PLANNING TOOL. AFTER ALL, IF THE DEBTOR OWNS A 20 YEAR OLD JUNK CAR, SHE PROBABLY NEEDS A NEWER CAR ANYWAY; A CHAPTER 13 IS USUALLY 5 YEARS LONG, SO A CAR PURCHASE IN THAT SCENARIO IS IN GOOD FAITH. A NEWER CAR WILL NEED LESS MAINTENANCE AND REPAIR GOING FORWARD, SO THE CHANCE OF A LARGE REPAIR EXPENSE DURING THE LIFE OF THE CHAPTER 13 PLAN GOES DOWN AND THEREFORE THE CHANCE OF PLAN COMPLETION INCREASES.

"GOOD FAITH" IS THE KEY. THERE NEEDS TO BE SOME ARTICULABLE, LEGITIMATE REASON FOR PURCHASING THE VEHICLE. SIMPLY WANTING TO "UP YOUR EXPENSES" IS NOT ENOUGH. FOR EXAMPLE, IF THE DEBTOR HAS AN ESTABLISHED HISTORY OF USING PUBLIC TRANSPORTATION AND DOES NOT OWN A VEHICLE, BUT THEN SUDDENLY BUYS TWO NEW VEHICLES FOR HIM AND HIS WIFE WITH A COMBINED MONTHLY PAYMENT OF \$1,034 (CURRENT IRS VEHICLE OWNERSHIP STANDARD IS \$1,034 FOR TWO VEHICLES) IMMEDIATELY BEFORE FILING CHAPTER 13 BANKRUPTCY, THAT SCENARIO WOULD CREATE A HIGH RISK OF OBJECTION.

SO, PRIOR TO CHAPTER 13 BANKRUPTCY: IF YOU HAVE AN OLDER, HIGH MAINTENANCE CAR, YOU CAN PROBABLY REPLACE THAT VEHICLE; IF YOU HAVE A GAS GUZZLER, YOU CAN PROBABLY REPLACE IT WITH A GAS SIPPER; IF BUYING THE VEHICLE WILL SIGNIFICANTLY LOWER YOUR VEHICLE INSURANCE, THAT IS PROBABLY OKAY. EVERY SITUATION IS DIFFERENT AND BANKRUPTCY DISTRICTS WILL HAVE DIFFERENT VIEWS ON THESE TACTICS; THEREFORE, YOU SHOULD ONLY BUY A VEHICLE PRIOR TO CHAPTER 13 BANKRUPTCY AS PART OF A LARGER FINANCIAL RELIEF STRATEGY THAT IS GUIDED BY AN ATTORNEY.

SO, THERE IS NO INHERENT PROHIBITION AGAINST BUYING, AND FINANCING, A CAR PRIOR TO CHAPTER 13 BANKRUPTCY, BUT YOU NEED TO BE ABLE TO PROVIDE A LEGITIMATE ANSWER TO THE QUESTION; MS. JONES, WHAT WAS THE REASON OR REASONS YOU PURCHASED THIS CAR?

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