

How to Declare Bankruptcy

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Declaring personal bankruptcy is never an easy decision. But the fact is that you may be better off if you decide to file.

What background information do I need before I can officially claim bankruptcy?

It's important to remember that while all bankruptcies are federal matters, different exemptions exist for all U.S. states. So before you do anything else, familiarize yourself with specific state laws where you live.

There are two types of personal bankruptcy – **Chapter 7**, where your assets are sold off to pay creditors, and **Chapter 13**, where you can develop an interest-free repayment plan. Since the most common form of personal bankruptcy is Chapter 7, we'll focus on that here.

What official steps do I need to take to file?

Step 1: Arrange for official credit counseling. New laws require you to work with a licensed counselor for the bankruptcy filing to be legitimate. And you must get credit counseling from a government-approved organization within six months before you file for bankruptcy protection. You can get specific credit counseling and debtor education help by sending an e-mail to: ust.cc.help@usdoj.gov. NOTE: The new laws say that you must meet with your counselor both before and after the case is filed.

Step 2: Report your income, and undergo "means income testing." This can be a bit complicated, so consult with your credit counselor. In basic terms, the means test measures whether or not you can repay your unsecured debts – things like credit and charge cards that don't require collateral. (If you can't, you may be eligible for Chapter 7 bankruptcy.)

Step 3: Make a list of your non-exempt assets. You'll need to compile paycheck stubs, tax returns, real estate deeds, and car titles – anything that must be divided among your creditors. NOTE: Remember that the laws in each U.S. state are different. Consult with your counselor to determine which assets are exempt; those are the ones you may be able to keep.

Step 4: Attend a meeting of your creditors. These meetings – called "341" proceedings, after section 341 of the Bankruptcy Code – are designed for you to meet directly with your creditors so you can answer specific questions about your overall debts and property. (The meeting is typically held approximately 30 days after your bankruptcy petition has been filed; no judge is present, only a trustee who asks you questions about your claim.)

Step 5: Wait for your results. Bankruptcy filings have become so common in recent years, all that's left to do is wait. As long as you're truthful in your 341 meeting, you should know if your bankruptcy request was granted within 60 days.

Declaring bankruptcy is a trade-off: Your debts go away, but current laws require you to maintain a "bankrupt status" for at least three years.