

Bankruptcy Types And Procedures

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Bankruptcy is a legal proceeding that involves a person or a business that is not able to pay its outstanding debts, which is termed bankruptcy. In other words, bankruptcy is a legal process that is designed to provide companies with a new start from an unimaginable debt. It not only removes the burden of debt but also helps a company keep its credit flowing in the economy. This system is operated by the USA bankruptcy courts, which are the subunits of the federal courts. In every single state of the USA, a Bankruptcy court is present. The debtor and creditor are the two parties involved in bankruptcy. A debtor is the one who owes the money to the creditor. The debtor could be an individual or a company. A creditor is the company that claims that the debtor owes money or property. Debtors can be of two different types: secured and unsecured. In the case of secured debts, creditors possess the legal right of something of a debtor in case he or company do not make payments. A mortgage is one of the examples in this case. If a company or an individual does not pay money, the bank will take the mortgage. Secured debts cannot be fully discharged.

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Straight Bankruptcy

Straight bankruptcy is the one in which all the assets that are in possession of the debtor are forfeited so that the maximum obligations of the debtor can be settled. Chapter 7 of the bankruptcy code begins with the petition filed by the debtor in the nearby court of his residence. In the appeal, he presents the current possession of liabilities and assets, a schedule of court income and expenditure, a financial statement and a program of executory contracts. The trustee of the case must be assigned with tax transcripts the debtor has paid for the last 5 to 6 years. To file a case, the court must charge \$245, \$75 for miscellaneous administrative fees and \$15 for trustee surcharge.

Municipal Bankruptcy

Municipal bankruptcy is a federal mechanism that deals with the resolution of civil debts. Chapter 9 of the bankruptcy code explains a metropolitan that includes towns, villages and cities, school districts and taxing districts. A municipality may voluntarily seek protection under bankruptcy code 11 U.S.C. In most cases, it is better to file a list of creditors along with the petition. If the debtor is unable to bring forward the list of creditors, then in this case, the court has the decision that it can fix different times. The bankruptcy code permits objections that are most of the time associated with whether the negotiations have been conducted in good faith or not. Under Chapter 9, the court fixes the time in the span in which proofs of the claim may be filed.

Reorganization

Most of the time, this is used by commercial enterprises that wish to continue their operations by paying out creditors according to the court's approved schedule. In this chapter, the debtor has the right to file a plan according to which he makes payments. This schedule will be presented within 120 days of a case filed in the court. The court then may approve or disapprove the plan. A debtor has the liberty to leave all those contracts that are associated with leasing and burdensome.

Adjustments Of A Debts Of Farmer Or Fisherman

Chapter 12 of the bankruptcy code deals with the modifications of a debt related to a fisherman or farmer concerning regular income and also provides relief in debt to the fishermen and farmers. In Chapter 12, the debtor proposes a plan that shows how he will pay out his debts over a period. Usually, the time that the debtor mentions is no more than three years. The trustee in this chapter has the same duties as the trustees have in the previous types of bankruptcy.

Rehabilitation

Rehabilitation with the payment plan for individuals or companies with a regular source of income. That individual who has a daily source of income will propose a plan for how he will pay out his debts in full or in part. It is sometimes also known as wage earner bankruptcy. Once the debtor acknowledges the court with his repayment plan, the court will decide whether to approve or disapprove it at a confirmation hearing. This chapter is not like chapter 7, the house that debtor possesses will not be taken in this case. However, in Chapter 7, the house that the debtor possesses will be counted in the payment (*Process – Bankruptcy Basics*, n.d.).

The following are some of the debts that have been discharged.

- Credit card debts
- Medical Bills
- Personal acquired loans
- Promissory Notes
- Obligations under contracts and Leases
- Liabilities arising due to car accidents

Once the creditor receives the notice that the debtor has filed a case in court. The attorney who specializes in such matters will tell the creditor whether or not he or the company objects to the debtor's bankruptcy. Chapter 13 of the bankruptcy code is more favourable to the creditor, but most of the time, debtors pursue bankruptcy under section 7 of the bankruptcy code. In Chapter 7, the debtor surrenders all the property he has to the court trustee. The trustee then liquidates the property and pays out the amount to the priority creditor, and then the remaining will be distributed

among other creditors. Following are some of the consequences of bankruptcy (Kelly, 2014).

Personal Discharge

One often positive consequence of completing the process of bankruptcy is the discharge. It is a permanent order that prevents creditors from collecting for the debts they had incurred before they filed for bankruptcy.

Automatic Stay

Another positive consequence is the automatic stay. This means that as soon as the debtor files a case in court, the court will issue an automatic stay order straight away from that time.

Credit Score

Change in your credit score resulting from filing a bankruptcy case is mixed. Usually, it puts your score to the bottom of the barrel.

American Airlines

American Airlines was one of the companies that bounced back from the bankruptcy. The company and its parent company, AMR, filed for bankruptcy in 2011. By 2014, AMR and US Airways formed a merger and became one of the largest airlines named American Airlines Group.

General Motors

Many prominent companies in America went down to bankruptcy in the economic recession of 2008. One of them was General Motors, which was founded in 1908. One of the dominant companies operating in America ended up with a debt of \$30 billion. The company filed for bankruptcy under Chapter 11 of the bankruptcy code in 2009. With the help of government funding, the company again started its operation, and it was a matter of time before it started making profits. This plan was presented by Jay Alix, who was the owner of Alixpartners (Fallon, 2015).

References

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