

Chapter Choice: Risk of incurring new debts after the filing of your bankruptcy

Deciding which type of bankruptcy to file can be complicated. It is important to understand how the different types of bankruptcy will address the debts that you have.



It is also important to understand the different risks associated with each bankruptcy. One factor that is often overlooked is the flexibility in discharging future debts that the Chapter 13 bankruptcy can provide.

When you file bankruptcy, it impacts your ability to file and receive a bankruptcy discharge in the future. If you file a Chapter 7 bankruptcy, you are generally prevented from filing another Chapter 7 for 8 years. It would also prevent you from filing and receiving a discharge in a Chapter 13 for 4 years. Therefore, you leave yourself at risk if you become liable for any debts incurred after the Chapter 7 is filed.

However, the Chapter 13 filing would provide potential options for addressing debts incurred after the filing of your case. When you file a Chapter 13 bankruptcy, you retain the potential to convert your case from a Chapter 13 bankruptcy to a Chapter 7. This would allow you to bring forward and discharge the new debts that were incurred after the filing of the case.

Additionally, if you complete your Chapter 13 bankruptcy, you would typically have the ability to file a Chapter 13 upon the completion of your prior case.

So when contemplating which type of bankruptcy you should file, be sure your attorney explains what the impact would be on your ability to address debts in the future. It may be better to file a Chapter 13 to retain your ability to discharge new debts (particularly medical debts).

If you do not have health insurance, it may be particularly important for you to retain the ability to discharge debts incurred in the near future. The bankruptcy provides the equivalent of catastrophic health insurance coverage in this circumstance. Additionally, if you are at higher risk of incurring new medical debts after the filing of your case, retaining the ability to discharge debts may be important. For example, if you have a medical condition, or if you are pregnant, this could place you at greater risk of incurring medical debts in the future.

Bankruptcy can be complicated, and it is important for your attorney to review and explain the differences between Chapter 13 and Chapter 7 bankruptcies. By doing so, you can make an informed decision that will protect you now, and potentially in the future.

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