

The basics of subsequent bankruptcy filings

Written by Australian Business

October 10, 2013 /**24-7PressRelease**/ -- Most people understand the protections and debt relief offered by a bankruptcy filing. No matter what type of bankruptcy (Chapter 7, Chapter 13, Chapter 11 or another provision), the end result is the same: significant debt relief and the opportunity for a fresh financial start. Due to circumstances like job loss, emergency medical expenses, an unexpected major expenditure (like a new air conditioner or furnace for your home) or other unanticipated economic strain, it might be necessary to file for bankruptcy more than once.

The U.S. Bankruptcy Code recognizes the possibility that someone may need major debt relief in the form of one or more subsequent filings, so it does allow debtors who have previously received a discharge through bankruptcy to file again. It is not as straightforward as simply filing another paper with the bankruptcy court, though. There are some key points that a debtor needs to remember before undertaking a subsequent bankruptcy filing, first and foremost that there are waiting periods between filings.

Marking time

While Congress, in drafting legislation that makes it possible for debtors to seek bankruptcy protection more than once, recognizes that financial circumstances do sometimes dictate another filing, they don't want to make repeat filings the first response for someone facing a lot of debt. To combat the possibility of "knee-jerk" subsequent bankruptcies, the U.S. Bankruptcy Code sets forth waiting periods between one bankruptcy and the next.

If the first bankruptcy was a [Chapter 7](#) and the debtor received a discharge, the debtor must wait eight years before getting another Chapter 7 discharge. The waiting period is cut in half (to four years) if the first bankruptcy is a Chapter 7 and the next will be a Chapter 13.

If, on the other hand, the first bankruptcy was a Chapter 13, the debtor can file another Chapter 13 after two years; most filers can file a subsequent Chapter 13 almost immediately after wrapping up the discharge on the first one.

A filer would need to wait only four years to file for a Chapter 7 bankruptcy after an original [Chapter 13](#)

. There is a caveat to this one, too. If the debtor's original Chapter 13 bankruptcy resulted in the debtor paying off more than 70 percent of his secured debt, there is no waiting period to file the subsequent Chapter 7. Since Chapter 13 bankruptcies usually last between three and five

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years, they, more than any statutory provisions, dictate the necessary waiting period; the first one must be completely discharged before a second can be filed.

Learning more

The area of bankruptcy law is complicated and difficult to understand. Would you like more information about bankruptcy, regardless of whether it is your first filing or a subsequent one? Do you need help navigating the complex bankruptcy process? For more information about bankruptcy and to determine if it is right for your unique financial situation, seek the advice of an experienced bankruptcy attorney in your area.

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