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Is Bankruptcy Right for You?

Making the decision to file bankruptcy is not easy. It is important to understand all of your options. In this guide, we will go over some of the most common questions we hear from our clients.



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What questions should I ask myself about bankruptcy?

Before filing bankruptcy, it is important to look at all of your options and understand both the benefits and negative effects of filing. These are some of the questions that must be considered:



(1) How badly do I need relief?

Are creditors hounding me? Have I been sued? Am I facing a garnishment or foreclosure? Is the pressure of dealing with my debts (or not dealing with them) causing problems with my job, my health, my family relationships? Have I tried to work with my creditors to no avail?

(2) Do I qualify for bankruptcy relief?

Most individuals qualify for relief under either Chapter 7 or Chapter 13.



However, higher income individuals may be restricted to a Chapter 13 repayment plan.

(3) Will filing a bankruptcy case really help?

Bankruptcy under either Chapter 7 or Chapter 13 will stop creditor harassment, foreclosure, garnishments and lawsuits. Some debts, however, cannot be completely discharged (wiped out) by a bankruptcy filing. These include recent income taxes, child support, alimony, and most student loans. Even if you are facing nondischargeable debts, bankruptcy may still help by providing temporary relief and by freeing up income that had been used to pay debt that can be discharged.

(4) Will I lose my property?

In most bankruptcy cases, the debtor is able to retain his or her property. However, in most cases if the property is being used as collateral on a debt, a plan must be proposed to pay the creditor at least the value of the property in order to protect it.

(5) Can I afford to file a bankruptcy case?

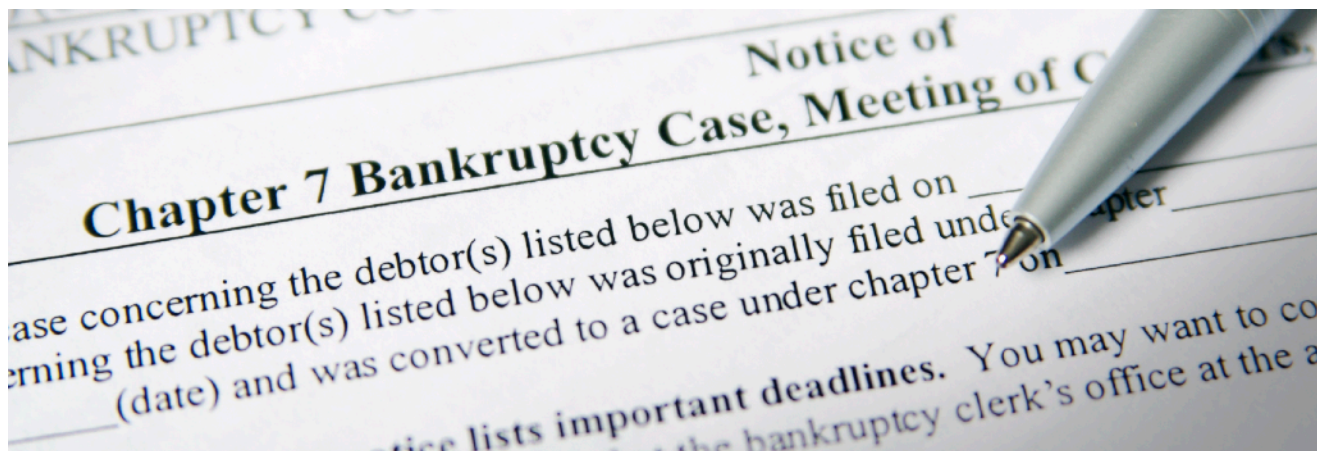
The best and most experienced bankruptcy law firms will provide a free initial consultation. You will meet with an attorney who will thoroughly evaluate your situation and fully discuss your options. He or she will explain the fees and costs involved and discuss what payment arrangements can be made. In Chapter 13 cases, the attorney fees are usually included in the repayment plan, so a case can be started with little money up front.



FREQUENTLY ASKED QUESTIONS

Is Chapter 7 bankruptcy right for you?

Many people like you have either lost their jobs, gotten behind on their mortgage, faced foreclosure on their home, lost a business, or may just be trying to catch up on their medical bills.



Sometimes, debts are insurmountable and options can be severely limited when it comes to catching up. However there is one option that can literally wipe your slate clean; Chapter 7 bankruptcy.

What is Chapter 7 Bankruptcy?

Chapter 7 Bankruptcy is a process used by individuals who are unable to pay



their debt obligations. In order to pay them off, a bankruptcy trustee is appointed to arrange the liquidation of a debtors assets. This is typically referred to as “straight bankruptcy”. The proceeds obtained from the sale of the liquidated property is then used to satisfy any debts.

Filing a chapter 7 bankruptcy case, the process will discharge most unsecured debts, which are debts that have no collateral. Unsecured debts include credit card debt, medical bills, and personal loans.

In effect, filing for chapter 7 clears out your debt obligations allowing you to start from scratch.

How Do I File for Chapter 7 Bankruptcy?

To file for Chapter 7 Bankruptcy, you generally file your case in the District where you reside or have resided for the last 180 days. Filing is more than just simply filling out paperwork. Handling this process yourself could jeopardize your bankruptcy case, which is why you should consult a bankruptcy attorney and weigh your options before filing.

How Long Does it Take to File for Chapter 7 Bankruptcy?

The entire process can last for approximately four to six months. The standard filing fee associated with filing for Chapter 7 bankruptcy is \$385 (\$335 court



costs and \$50 credit counseling, plus attorney fees). When handled properly with the assistance of a bankruptcy attorney, the filing process can be handled in one trip to the courthouse.

What Happens When I file for Chapter 7 Bankruptcy?

Whenever a bankruptcy case is filed, an automatic stay goes into effect. An automatic stay temporarily prevents any creditor from engaging in collection activities or pursuing a debtor for an amount owed for the duration of the bankruptcy. The automatic stay starts immediately after filing for bankruptcy.



Can Anyone File for Chapter 7 Bankruptcy?

Only people who qualify can file for Chapter 7 bankruptcy. To become eligible, you must meet the requirements set by the “means test” which is a method used to determine whether your income is low enough for you to file.

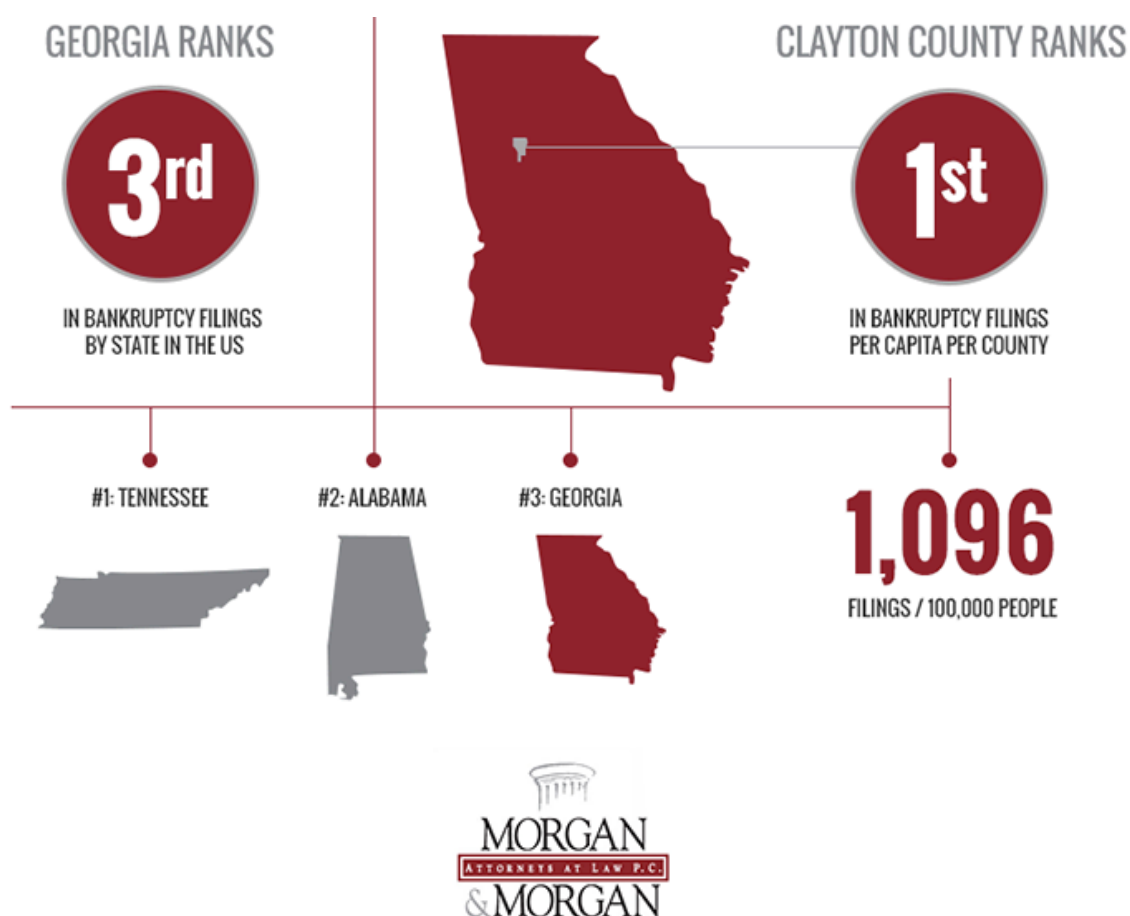
Chapter 7 bankruptcy is meant for individuals who have a low income and truly have difficulty paying off their debts. The means test assesses your



eligibility by deducting your monthly expenses from your monthly income. This test finds your disposable income and measures it against the average disposable income of other families. If your disposable income is lower than the average disposable income, then you qualify. If your disposable income is higher, then you do not. For individuals who have a disposable income that is too high to qualify, filing for chapter 13 bankruptcy is another option.

Will Chapter 7 Bankruptcy Discharge All of My Debt?

Not every debt is discharged in bankruptcy. Some debts may postpone the requirement to pay during the bankruptcy period, but once the bankruptcy process is complete, you will still be responsible to pay. Debts that are not discharged during bankruptcy are unpaid income taxes, child support, alimony and student loans.



FREQUENTLY ASKED QUESTIONS

Is Chapter 13 Bankruptcy Right for You?

Chapter 13 bankruptcy is very different from Chapter 7. Different rules govern each, and it is important to understand how both apply to your financial situation.



In a chapter 7 bankruptcy case, the assets of a debtor are sold by the appointed bankruptcy trustee to pay off the debtors debts. Chapter 13 cases are different, because instead of losing property to sale, a debtor is allowed to set up a payment plan with the bankruptcy trustee to pay back the debt over the course of a three to five year period. The money used to pay the bankruptcy trustee and satisfy the debt comes from regular income and wages instead of sale proceeds of personal property. This form of bankruptcy is commonly referred to as reorganization bankruptcy.



Who is Eligible for Chapter 13 Bankruptcy?

Like Chapter 7 bankruptcy, not everyone qualifies, but not for the same reasons. Any individual, whether self-employed or operating as an unincorporated business may file, provided they are eligible. To become eligible, you must have enough disposable income to cover your debts. Chapter 13 bankruptcy requires that you pay off your debts with your stream of income, so it is required that you show the court you have the ability to meet your obligations from your income.

Eligibility for Chapter 13 bankruptcy is also dependent upon the total amount of all your secured debts and unsecured debts. Secured debts are debts that are guaranteed by some form of collateral.

Collateral, in regards to a secured debt is an asset that is used to secure a loan – that is – it is something that the creditor can utilize to cover the cost of the loan in the event that the borrower is unable to fulfill their debt obligation. A car loan is a good example of a secured debt.

An unsecured debt is a debt for which there is no collateral. Examples of these are credit card debts, medical bills, and student loans. If an individual has amassed secured debts that exceed \$1,149,525 and unsecured debts that exceed \$383,175 then they will not be allowed to file for Chapter a 13 bankruptcy case.



How Do I File for Chapter 13?

You should have a consultation with a Chapter 13 bankruptcy attorney before filing. The knowledge and experience of conducting Chapter 13 filings in the past will prove invaluable to your decision making process. Having an attorney explain the process to you will also keep you informed and help the process run smoothly.

The actual filing portion of a Chapter 13 case begins by filing a petition with the bankruptcy court in your area. Typically, the petition will include:

- A breakdown of all assets and liabilities
- A list of monthly income and expenses to determine disposable income
- A schedule of executory contracts and unexpired leases
- A statement of the condition of financial affairs.

The filing fee will be \$360 in total which is made up of the \$310 in court costs and the \$50 credit counseling. Morgan & Morgan's experienced bankruptcy attorneys can start a chapter 13 case for \$120. The filing payment can be made in three installments.

How Much Do I Have To Pay?

There is no set amount that must be paid as part of a Chapter 13 case. However, there is a specific threshold that must be met. Part of the Chapter 13 plan requires you to pay certain debts in full. These debts are deemed "priority



debts” because they are more pressing.

Priority debts include child support, alimony and tax obligations. You are also required to make regular payments on other secured debts like car loans and mortgages.

Attorney fees can be paid through the plan.

What If I Fail to Make My Scheduled Chapter 13 Payments?

If you are in a Chapter 13 payment plan and are unable to keep the payments current, the Trustee, or a creditor, may file a motion to dismiss the case.

If that motion is successful, the bankruptcy court will dismiss the case. That means the case is no longer open and the debts listed in the bankruptcy are not discharged. It also means the Automatic Stay, the statutory protection debtors have from creditors while a case is pending, also terminates. If that happens, a creditor can resume their collection efforts.

When a bankruptcy is dismissed, the presiding judge decides if that dismissal is ‘with prejudice’ or ‘without prejudice.’ A case dismissed ‘with prejudice’ means the debtor cannot refile for bankruptcy. That can happen when, for example, it is determined the debtor lied in their bankruptcy paperwork or in court. A case that is dismissed ‘without prejudice,’ can be refiled.



Some reasons a case is dismissed without prejudice include:

- Certain deadlines were not met or necessary forms were not filed
- The debtor did not complete the mandatory financial management courses
- Chapter 13 payments were not made
- The debtor failed to attend the required Meeting of Creditors

A Chapter 13 case dismissed without prejudice can be refiled. However, a bankruptcy that is refiled within one year of being dismissed without prejudice will not enjoy all the benefits of the automatic stay. In that scenario, the automatic stay will only be effective for 30 days rather than the entire pendency of the bankruptcy.



If your Chapter 13 bankruptcy is dismissed without prejudice, the attorneys of Morgan & Morgan can review the facts and counsel on how to proceed. We can also file the appropriate motions to request the bankruptcy court extend the automatic stay.



FREQUENTLY ASKED QUESTIONS

Before You Get Started

If you are considering bankruptcy, it is important to have a free consultation with an experienced bankruptcy attorney. You will leave the consultation with a good understanding of your options.



Once you know your options, you can make an informed decision about what should be done. Never let an attorney or anyone else pressure you into filing bankruptcy, or filing a particular type of bankruptcy. Get the facts first.

Make sure you know and understand the pros and cons of each type of consumer bankruptcy case before you file.



What can I expect at my initial consultation?

At Morgan & Morgan, you can expect a private, pleasant, non-judgmental, thorough review of your situation by an attorney with many years of experience. We will take the time to make sure you know your options, and we will try to answer all your questions.

We will NEVER pressure you to file a bankruptcy case.
Instead, we will make sure you have the information you need to make a decision that is right for you.

Do I Have to Organize All of My Financial Records?

Absolutely not. We can usually gather the information we need by simply asking the right questions. If necessary, we will help you get a credit report to help insure we have a complete picture. At your first meeting, our primary focus is to get a good overall picture of your situation and make sure you understand your options. You don't need to spend hours gathering documents before you come in.



FREQUENTLY ASKED QUESTIONS

What Happens at Your Free Consultation with Morgan & Morgan?

Here is what you can expect when you meet with us.



You will meet with an attorney at your initial consultation

Some other law firms have you meet with an assistant or paralegal first. With these firms, you may not even meet your attorney until your first court date. We feel it is important to meet face to face, so you can shake hands with the person who will actually represent you and get to know them. Most importantly, a paralegal or assistant cannot properly assess your options and advise you about the pros and cons of the bankruptcy process.



You will receive advice specific to your situation

Most people have a general idea of how bankruptcy works, but do not fully understand how it applies to them. This leads to misunderstandings about who can file for bankruptcy, which debts are eligible for discharge, and what happens with property and belongings.

The initial consultation is our chance to clarify bankruptcy laws, and how they apply to you and your specific situation. We will discuss your goals and priorities, and outline the different options available to accomplish them.

You will *not* file bankruptcy at your initial consultation

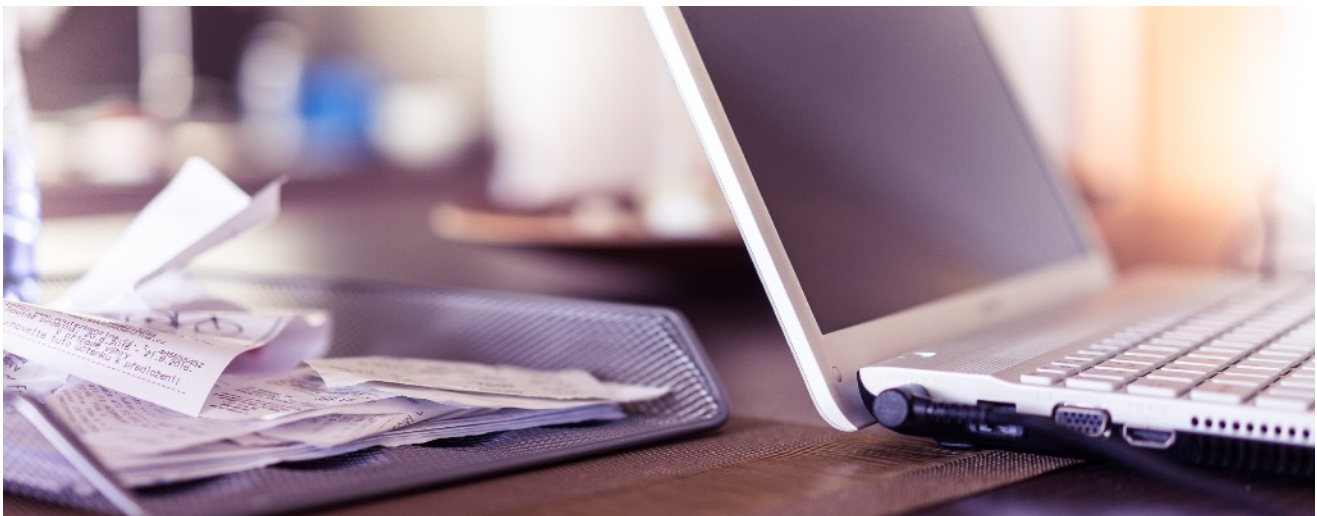
Under certain circumstances (foreclosure, repossession, garnishments), we can file a bankruptcy case immediately following the consultation. However, we normally encourage our clients to take the time to consider their different options. We understand that filing bankruptcy is a big decision that should not be entered into without advice and consideration. We want our clients to be comfortable with both the case they are filing and the attorney representing them before going forward with filing.



FREQUENTLY ASKED QUESTIONS

When You're Ready to File

After your free consultation, you should think about your different options. If you decide to file, you will come in for a second appointment with Morgan & Morgan.



You should come to your filing appointment even if you don't have all the information or money discussed with your attorney

By showing up for your appointment, even with incomplete information or filing fees, we can start the process of preparing your documents for filing. Often, we will be able to file your case and submit additional information to the court later.



Missing your appointment delays the help and relief we can get for you. Even worse, this may lead to further harassment and complications from your creditors.

You Will Meet with our Experienced and Highly Trained Staff

Your next appointment will be with a legal assistant on our staff. Your legal assistant is specifically trained to help gather information and prepare documents in connection with bankruptcy cases. Your attorney is in charge of preparing and filing your case, and the legal assistant aids in the process.



We Gather the Information and Documents for your Case

Your legal assistant will ask you questions about your debts, expenses, income, and assets. They will also review your credit report, paystubs, tax returns, bank accounts, and any recent payments or transfers you may have made.

If you don't have these documents available, please still come for your appointment. We can always get them after the meeting.

Your Attorney Reviews and Prepares your Case for Immediate Filing

At the end of your meeting, you are asked to read and verify the information gathered and sign forms stating that the information is true and accurate to the best of your knowledge.

Your case will then be given back to your attorney for final review and preparation of the documents to be filed with the bankruptcy court. Generally, if no unusual problems arise, your bankruptcy case will be filed with the court within about 24 hours of your meeting.



CALL TODAY

Why You Should Call Morgan & Morgan Today

We have helped families in Georgia get their lives back on track for over 30 years. We offer a free consultation for any of our practice areas.



Unlike many firms who schedule new clients to meet with a paralegal, when you schedule an appointment with Morgan & Morgan, you will meet personally with an experienced attorney.

The initial consultation will allow your attorney to get to know you and your situation. They will be able to advise you on the best course of action and



discuss all fees and costs that may be required. We will never pressure you to hire us, or to take any course of action you are unsure of.

No Pressure.

No Judgement.

100% Private and Confidential.

Your Consultation is Free.

Over the years, Morgan & Morgan has served thousands of residents of Northeast Georgia. Our attorneys can help you save your home from foreclosure, save your vehicle from repossession, and keep collectors away from you and your family.

Call Morgan & Morgan Today at (706) 548-7070.



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