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# Chapter 13 Bankruptcy

Chapter 13 bankruptcy is very different from Chapter 7, in that it involves repaying debt. Chapter 13 bankruptcy is commonly referred to as reorganization bankruptcy.



# Table of Contents

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Chapter 13 Eligibility.....3

How Do I File for Chapter 13 Bankruptcy?.....4

Filing a Chapter 13 Bankruptcy Petition.....5

How Much Do I Have To Pay?.....6





In a chapter 7 bankruptcy case, the assets of a debtor are sold by the appointed bankruptcy trustee to pay off the 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 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.

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## Chapter 13 Eligibility

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 have to have enough disposable income to cover your debts. Chapter 13 requires that you pay off your debts with your stream of income, so it is required that you show the court you have the capacity to meet your obligations solely from your income.

Eligibility for Chapter 13 bankruptcy is also dependent upon the totaled 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. 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 13.

# How do I file for Chapter 13 bankruptcy?

Consult with a [Chapter 13 bankruptcy lawyer](#) before you attempt to file. The knowledge and experience of conducting Chapter 13 filings in the past will prove invaluable to your decision making process. Having a bankruptcy attorney explain the process to you will also keep you informed and help the process run smoothly.

<b>Are you eligible for CHAPTER 13?</b> Here is what you need:		<b>Up-to-date on tax filings.</b>
		<b>Within debt amount limitations.</b>
		<b>Employed and have enough income to cover the required monthly payment.</b>
		<b>Is an individual, not a business (however, all financial aspects of a sole proprietor's business get included in the bankruptcy).</b>

## Mandatory credit counseling

Before you can file for bankruptcy you have to undergo mandatory credit counseling from an agency that is preapproved by the United States Trustee's office. You may visit [ACDCAS.com](http://ACDCAS.com) for approved credit counseling. The agencies that administer the counseling charge various fees for their services that must be paid to complete the program. After you have completed the counseling, you may then file for Chapter 13.



**ONLINE CERTIFICATION COURSES  
can be completed in a few hours**

# Filing a Chapter 13 bankruptcy petition

The actual filing portion of a Chapter 13 case begins by filing a petition with the bankruptcy court in the area where you reside. Typically, the court will also expect:

**1** Assets and liabilities → A breakdown of all your assets and liabilities.

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**2** Income and expenses → A list of monthly income and expenses to determine disposable income.

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**3** Contracts and leases → A schedule of executory contracts and unexpired leases.

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**4** Financial condition → A statement of the condition of financial affairs.

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**5** Filing fee → The filing fee will be \$360 in total which is made up of the \$310 in court costs and the \$50 credit counseling. We will start a chapter 13 case for \$120.

## 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.

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## 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 one of your creditors, may file a motion to dismiss the case. You will need to take action quickly to remedy the situation. Many districts require that in you file a written response to the motion, otherwise the court will grant it without a hearing. Some districts always set up a hearing when a motion is filed in a bankruptcy case.



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Morgan & Morgan Attorneys at Law, P.C. is located in Athens, Georgia. We have more than 30 years experience helping people with financial problems, social security disability claims, workers' compensation claims and other legal issues. Contact us for a free consultation about your case.

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