

# Want to Declare Bankruptcy Under Chapter 13? Are You Eligible?"

## Businesses can't declare bankruptcy under Chapter 13

A business, even a sole proprietorship, cannot file for Chapter 13 bankruptcy in the name of that business. need to declare bankruptcy under Chapter 11 when they need help reorganizing their debts.

If you own a business as a sole proprietor, however, you can file for Chapter 13 bankruptcy as an individual and include the business-related debts for which you are personally liable.

## You Must Have Stable and Regular Income

You must have stable and regular income to be eligible to declare bankruptcy under Chapter 13. That doesn't mean you must earn the same amount every month. But the income must be steady -- that is, likely to continue and it must be periodic -- weekly, monthly, quarterly, semi-annual, seasonal or even annual. You can use the following income to fund a Chapter 13 plan:

- Regular wages or salary;
- Income from self-employment;
- Wages from seasonal work;
- Commissions from sales or other work;
- Pension payments;
- Social Security benefits;
- Disability or workers' compensation benefits;
- Unemployment benefits, strike benefits and the like;
- Public benefits (welfare payments);
- Child support or alimony you receive;
- Royalties and rents; and
- Proceeds from selling property, especially if selling property is your primary business.

## You Must Have Disposable Income

For you to qualify for Chapter 13 bankruptcy, your income must be high enough so that after you pay for your basic human needs, you are likely to have money left over to make periodic (usually monthly) payments to the bankruptcy court for three to five years. The total amount you must pay will depend on how much you owe, the type of

debts you have -- certain debts have to be paid in full; others don't -- and your court's attitude. A few courts allow you to repay nothing on debts, which legally, don't have to be repaid in full, as long as you repay 100% of the others. Some courts push you to repay as close to 100% of your debts as possible. Most courts fall somewhere in between.

To determine if your disposable income is high enough to fund a Chapter 13 plan, you must create a reasonable monthly budget. If you are not proposing to repay 100% of your debts and the court, the trustee or a creditor thinks your budget is too generous -- that is, it includes expenses other than necessities -- your budget will be challenged.

### **Your Debts Must Not Be Too High**

You do not qualify to declare bankruptcy under Chapter 13 if your secured debts exceed \$922,975.00. A debt is secured if you stand to lose specific property if you don't make your payments to the creditor. Home loans and car loans are the most common examples of secured debts. But a debt might also be secured if a creditor -- such as the IRS -- has filed a lien (notice of claim) against your property.

In addition, for you to be eligible for Chapter 13 bankruptcy, your unsecured debts cannot exceed \$307,675. An unsecured debt is any debt for which you haven't pledged collateral. The debt is not related to any particular property you possess, and failure to repay the debt will not entitle the creditor to repossess property. Most debts are unsecured, including bank credit card debts, medical and legal bills, student loans, back utility bills and department store charges.