

The Benefits of Chapter 13

The Benefits of Chapter 13 are so numerous that it is very difficult to list and explain them in a Website. Nevertheless, on this page we have attempted to give you more detailed examples of how a Chapter 13 Bankruptcy can help you. First and Foremost, it is important to remember that you can file Chapter 13 even if you have filed a prior Chapter 7 Case. Another Great Benefit of Chapter 13 is the flexibility it provides. Therefore, as you read through some of the many Benefits of Chapter 13 listed below, keep in mind that you can tailor these Benefits to your specific needs. For example, you can surrender one car that you don't need and keep another one that is needed. Moreover, on the car you keep, you may be able to lower the interest rate and the amount of the monthly payment. Therefore, when you discover a benefit which may be helpful to you, write it down so we can discuss that issue at your Free Initial Consultation:

- Chapter 13 Allows you to Consolidate your Debts in to one Affordable Payment** Chapter 13 is similar to a Debt Consolidation Plan with several big exceptions. First, you do not ordinarily have to pay back all of your debts. Second, your Creditors have no choice but to accept your Chapter 13 Case provided it complies with the Bankruptcy Code. Third, you will make one payment to the Chapter 13 Trustee and she will disperse payments to your Creditors. In most Chapter 13 Cases, an individual is only required to pay back a small percentage of their unsecured debts WITHOUT further interest or penalty. In many cases that percentage is as low as 1%. For example, if a person owed \$100,000.00 on Credit Cards, in a 1% Chapter 13 Plan they would only be required to pay \$1,000.00 to the Credit Cards over a period of 3 to 5 years. In a 60 month Plan, the payment to those Credit Cards would only be \$17.00 per month and at the end of the 60 months, the balances would be discharged. In addition to Credit Cards, car payments, mortgage arrears and certain other Debts are paid through the Trustee. This means that rather than making numerous payments to Creditors, you will make one payment to the Trustee who will, in turn, make payment to those creditors entitled to payment under the terms of your Plan. If you so choose, you can also have the Plan payment deducted from your pay check so that you don't even have to worry about making the Plan payment.
- The Chapter 13 Trustee** The Chapter 13 Trustee is the person who oversees your case, collects your Chapter 13 Payments and disperses the Chapter 13 funds to Creditors. In Cincinnati, the Chapter 13 Trustee is Margaret A. Burks, Esq. After filing your Case, Mrs. Burks or her Staff Attorney, Frank Dicesare, Esq., will meet with you to review your financial situation. Many of my Clients tell me that they are very nervous about meeting with the Trustee. You will find that Mrs. Burks and Mr. Dicesare are very friendly and compassionate and have no desire to embarrass or hurt you. Provided that you are well prepared for this meeting and appear on Time, the Trustee will usually express a desire to help your Case be successful and will ordinarily approve your Plan. In addition, we know what the Trustee expects in most situations and we strive to meet these expectations. This allows your case to move more smoothly through the Process and prevents the unnecessary problems that develop from Attorneys who do not understand how Chapter 13 works. Chapter 13 is very complex and utilizing an Attorney experienced in the Chapter 13 Process will help you maximize the benefits that Chapter 13 has to offer and will reduce the anxiety you experience while your case is pending.
- It Costs Less Upfront Money to file a Chapter 13 Case** Sometimes, one of the most difficult challenges facing a person who wants to file Bankruptcy is coming up with the money to get their case filed. Although the overall fees are higher in Chapter 13, the upfront costs required to get a Chapter 13 Case filed are less than Chapter 7. Moreover, we can show you creative ways to finance the initial Chapter 13 payment which will allow you to get your case filed while retaining enough money to live on.
- You can Keep your Home even if you are behind on Mortgage payments or in Foreclosure** Regardless of how far behind you are on your Mortgage Payments you can still keep your home by filing Chapter 13. This is true even if a Foreclosure Complaint has been filed. Moreover, you will not be required to make a lump sum payment of all the past due Mortgage Payments.
- You can Cure the Default on your Mortgage over a period of 3 to 5 years** Chapter 13 allows you to cure the past due Mortgage Payments by making small monthly payments over a period of three to five years without further Penalty or Interest. For example, if you are \$10,000.00 behind on your Mortgage, you would be required to pay \$167.00 per month on the arrearage in a 60 month Plan.

6. A Foreclosure can be Stopped at any time Prior to the Sheriff Sale

Many people believe that once a Foreclosure is filed they can be quickly removed from their Home. Nothing could be further from the truth. In fact, in Ohio it usually takes at least 4 months from the date the Foreclosure Complaint is filed until the Home is sold by the Sheriff. During that time, you can continue to live in your Home and no one can remove you from it. Furthermore, the Foreclosure can be stopped by filing a Bankruptcy Petition at any time prior to the Sale of the Property by the Sheriff. Once the Property is sold by the Sheriff, however, the Property can not be recovered by filing Bankruptcy. It is, therefore, very important that you seek the advice of an experienced Bankruptcy Attorney immediately upon being served with Foreclosure Papers. The sooner you speak to an Attorney, the more time the Attorney will have to plan the appropriate way of dealing with your situation.

7. You may be able to Discharge a 2nd Mortgage in Chapter 13

Depending on the value of your Home and the amounts you owe on your 1st Mortgage, it may be possible to Discharge your 2nd Mortgage in a Chapter 13 Case. This is a very complex process and will be further explained at your Free Initial Consultation.

- You can Keep your Car even if you are Behind on Payments** Regardless of how far behind you are on car payments, you can keep your Car by filing Chapter 13. This is still true even if the car has been repossessed. Provided you file Bankruptcy prior to the car being sold at Auction, the Creditor must return you vehicle to you. Furthermore, you will not be required to cure the default in a lump-sum payment.
- You may be able to Pay for your Car at Fair Market Value rather than the Actual Amount Owed on the Car** Depending on the date you purchased your Car, it may be possible to pay for the Car in a Chapter 13 at its Fair Market Value rather than the Actual Amount you Owe on

your Car Loan. For example, if you owe \$20,000.00 on a Car that is only worth \$8,000.00, you may be able to keep the Car and only pay \$8,000.00 to the creditor over a period of 3 to 5 years. Of course, in the process you will save \$12,000.00 plus Interest.

10. You may be able to Reduce the Interest Rate on your Car Loan

In Chapter 13, you are only required to pay a reasonable interest rate on your Car Loan. At the present time, we usually propose an Interest Rate of about 9%. If the Interest Rate on your Car Loan is higher than 9%, Chapter 13 could save you a significant amount of money in Interest Charges.

11. You may be able to cram down a loan on a Mobile Home

Like Cars, Mobile Homes depreciate. Therefore, several years after you purchase your Mobile Home, you may owe far more than it is actually worth. For this reason, the Bankruptcy Code allows you to payoff a Mobile Home Loan at fair market value over a 3 to 5 year period at an interest rate that is usually around 9%. For example, if you owe \$60,000.00 on a Mobile Home that is only worth \$15,000.00, would only be required to pay \$312.00 per month in a Month Plan.

12. You can keep your income tax refund

In Chapter 13, you can incorporate your annual income tax refund into your Chapter 13 Case and this will allow you to retain the refund each year while your case is active. In Chapter 7, you may lose some or all of your income tax refund depending on when you file your Petition.

13. You get the benefit of the Chapter 13 Super Discharge

Certain Debts which cannot be discharged in Chapter 7 can still be discharged in Chapter 13. For example, money owed as part of a divorce or property settlement cannot be discharged in Chapter 7 but can be discharged in Chapter 13. There are many types of Debt which can be discharged in Chapter 13 but not in Chapter 7. We will review the dischargeability of your debts at your Free Initial Consultation and advise you of your options.

14. You can Pay Non-Dischargeable Tax Debts without further Penalty or Interest

If you owe income taxes for a year that is more than 3 years prior to filing your Bankruptcy Petition, those income taxes are usually dischargeable provided you filed your Tax Return on time and have not been recently assessed by the IRS. Income Taxes for years less than 3 years prior to filing your Bankruptcy Petition are non-dischargeable. Chapter 13 does, however, allow you to pay these non-dischargeable taxes over a period of 3 to 5 years without further Penalty or Interest.

15. You can convert to Chapter 7 at a later time

Just because you file a Chapter 13 case does not mean that you have to stay in it for the entire 3 to 5 year period. At anytime, you can voluntarily dismiss your Case. Moreover, you also have the right to convert your case to Chapter 7 provided you qualify to file Chapter 7. The right to dismiss is helpful to many people who are experiencing only short-term financial problems. The right to convert is valuable to people who expect to incur substantial expenses, such as medical bills in the future. The next Paragraph will help you understand this benefit in more detail.

16. You can include Debts Incurred after the filing of your Chapter 13 in your Chapter 7 Conversion

Converting to Chapter 7 from Chapter 13 allows you to Discharge debts that were incurred after the filing of your Chapter 13 Petition and before the Conversion of your Case to Chapter 7. This is very helpful to people who are suffering from chronic illnesses. For example, if a person owes \$100,000.00 in medical bills and expects to incur an additional \$50,000.00 in medical bills over the next year, they would not want to file Chapter 7. This is because if they filed Chapter 7 before the additional medical bills were incurred, they would be barred from filing another Chapter 7 Case for 8 years. If on the other hand, they file a Chapter 13 Bankruptcy to ward off their existing creditors and stay in the Chapter 13 case until the additional medical bills are incurred, they can then convert to Chapter 7 and discharge the \$100,000.00 of medical bills incurred prior to filing their Chapter 13 Case and the \$50,000 of medical bills that were incurred while their Chapter 13 Case was pending.

17. You are entitled to a Free Financial Management Course

The Chapter 13 Trustee offers a free 2 Hour Financial Management Course which is not available in Chapter 7.

18. You will learn to budget your money better

In addition to the Free Financial Management Course, Chapter 13 requires you, with your Attorney, to create a realistic budget. For many people, this may be the first time they analyze their finances and understand just how much money they are making and how much they are wasting. Budgeting is the key to Financial Freedom and Chapter 13 is designed to help you learn how to Budget.

19. Your Credit will start to Rebuild While in Your Chapter 13 Case

Many creditors look more favorably on a Chapter 13 Discharge because, unlike Chapter 7, you do pay something back even if it is a very small amount. Moreover, provided you make your required Chapter 13 payments, your credit score will actually rise while your Chapter 13 case is pending. In some instances, a person's credit may improve to the point where a lender will agree to loan them enough money to pay off their Chapter 13 Plan early.

20. There are Many More Benefits

The Benefits of Chapter 13 are too numerous to list here. At your Free Initial Consultation, we will analyze your Financial Situation and find additional benefits that may be available to you in Chapter 13.

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