

TOP TEN SHEET: BANKRUPTCY LAW

Speaker: Brendon Singh, Corral, Tran Singh, LLP – Houston, TX

1. Types Of Personal Bankruptcy
 - a. Chapter 7 – Liquidation! But you keep your exempt property.
 - b. Chapter 13 – Reorganization over 3 to 5 years of some debts.
 - c. Chapter 11 – Reorganization for the RICH!
2. What Type of Bankruptcy Should I File?
 - a. Chapter 7
 - i. Medical, Credit Cards, Payday Loans, Attorneys Fees, other unsecured debt.
 - b. Chapter 13
 - i. Behind on a house, car, furnisher
 - ii. Facing foreclosure or repossession
 - iii. Owe the IRS (income taxes)
3. What Property Is Exempt?
 - a. Depends on where you live.
 - i. Texas – Lived in Texas for 2 years and in the district for the greater part of 180 days.
 - ii. Federal – if you live in a state that allow the uses of Federal exemption.
4. What Can I Keep?
 - a. Texas
 - i. Homestead (i.e. 10-million-dollar mansion)
 - ii. Car for each family member with a driver's license (i.e. Tesla for everyone)
 - iii. Furnishing, tools, jewelry, apparel, 2 firearms, sporting equipment, and household pets
 - iv. 2 horses, 12 head of cattle, 60 head of other livestock and 120 fowl
 - b. Federal
 - i. Homestead Exemption: \$23,675 in equity
 - ii. Motor vehicle: \$3,775 in equity (one vehicle per spouse)
 - iii. Jewelry: \$1,600
 - iv. Household goods: \$12,625
 - v. Tools of the trade: \$2,375
 - vi. Wild card: \$13,100.00 per spouse of any of the homestead exemption not used
5. Can Anyone File For Chapter 7
 - a. Yes, if you pass the means test
 - i. All income for the last 6 months divided by 6, multiplied by 12.
 - ii. Compare this number to the median income for a household of your size in your zip code

1. Travis county – Household of 4 – median income is \$77,800
6. How Do I Pay For An Attorney If I Am Bankrupt?
 - a. Cost vary depending on attorneys and location
 - i. Chapter 7 - \$1,200 to \$2,500 (non-business related cases)
 - ii. Chapter 13 - \$2,200 to \$4,500
7. How Long Will Bankruptcy Stay On Your Credit?
 - a. Generally, 10 years
 - i. However, if you have chronic late and missed payments, charge-offs, etc., you should see your credit improve a year or so after bankruptcy
8. How Long Before I Can get a Mortgage?
 - a. After a Chapter 7
 - i. FHA or VA Loan – 2 years
 - ii. Conventional Loan – 4 years
 - b. After a Chapter 13
 - i. FHA or VA Loan – After a year of payment to trustee and written approval
 - ii. Conventional Loan – 2 years
 1. If the Chapter 13 is dismissed – 4 years
9. What Must You Do Before You File For Bankruptcy
 - a. You must take a 90-minute credit counseling class
10. How Will Know That I Filed Bankruptcy?
 - a. Mostly, your creditors, but Bankruptcy Court is a court and the information is public information.

Bankruptcy Myths

1. Didn't Congress stop people from filing bankruptcy in 2005

False. Congress made the bankruptcy process more difficult, and changed eligibility, but generally, if they were eligible before 2005, then you are likely eligible now to file for bankruptcy.

2. If I talk to bankruptcy attorney I will have to file bankruptcy

False. A bankruptcy attorney cannot force you to file bankruptcy without your consent. The consultation is to provide you with information. Obtaining this information helps YOU to make decisions by giving you your options and the benefits and costs of each.

3. If I file bankruptcy I will have to repay all of my debts

This is **false** in most cases. Sometimes if the analysis shows too much income on either the means test or current budget, you may have to repay some debts, but usually not.

4. I will lose all my property if I file bankruptcy

False. Whether you get to keep your property depends on the value (or amount of equity) in any particular item of property and what exemption are available to protect the value in that asset.

5. Bankruptcy will destroy my credit

False. It is true that bankruptcy can be reported on your credit report for up to 10 years after your case is filed, but the actual effect of bankruptcy on your credit score depending on what your score was before you filed bankruptcy, and it is temporary because you can start rebuilding your credit immediately after filing your case.

6. I'm not behind now, so I can't file bankruptcy

False. There is no requirement that you be delinquent on any payments to file bankruptcy.

7. I make over the median income for my zip code, so I cannot file a chapter 7 bankruptcy

False. The median income threshold is merely the trigger for whether you actually have to do the means test.

8. I will lose all my stuff if I file bankruptcy

False. If you file under the correct chapter for your situation, you should never lose ANY assets unexpectedly or involuntarily.

9. I feel guilty about filing bankruptcy

Well, that's a personal decision of course, but considering the great people who have filed for bankruptcy, and the state purpose of the bankruptcy laws, there's no more reason to feel guilty about filing bankruptcy than there is for receiving social security.

10. Can I pay my parents back before I filing bankruptcy.

False. Depending on which bankruptcy chapter is filed, doing so within a certain time period prior to filing can result in those friends and relatives being sued by a bankruptcy trustee to recover the money you repaid.

11. I cannot get rid of taxes in bankruptcy, so why bother?

False. Taxes, including income tax, sales taxes, unemployment (EDD) overpayments, excise taxes, and more are dischargeable if certain criteria are met.