

## **FILING BANKRUPTCY**

### **You are not alone:**

No one "chooses" to file for bankruptcy protection. It is a decision that is forced upon many consumers in these current volatile economic conditions. Many of my clients who have filed for bankruptcy had excellent credit and were financially stable in 2006 and 2007. With the downturn in the real estate market; rise of oil prices and increased cost for food and basic provisions they now find themselves faced with frightening financial times. They are harassed by collection agencies who call at all hours of the day and night and simply want the financial nightmare to stop.

The filing of a bankruptcy will stop all collection efforts including rude and obnoxious calls from creditors and their collection agents.

There have been changes in the Bankruptcy Laws that you should be aware of for they impact your ability to file for Federal Bankruptcy Protection.

### **Change in the Bankruptcy Laws:**

In October of 2005 the Bankruptcy laws were amended. This amendment (Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA)) has simply made it more difficult and more expensive for an individual consumer to file for bankruptcy protection under Chapter 7.

The changes in the bankruptcy laws may or may not effect your particular case or situation. We will discuss this with you when you contact our office for a free consultation. Also the changes will have little impact upon a corporation or business filing where the debts incurred have come from the operation of a business (not consumer debts).

### **Chapter 7 Means Test:**

Prior to the enactment of BAPCPA the amount of your income did not impact your ability to file for a Chapter 7 bankruptcy. If you earned \$100,000 per year and your expenses were \$200,000 per year you would be deemed "insolvent" and, subject to certain exceptions, would be able to file for bankruptcy protection under Chapter 7.

After BAPCPA you must undergo a means test to determine if you "qualify" to file a Chapter 7 bankruptcy.

### **Means test (Automatic Pass):**

If your current monthly income is below the California adjusted median income as calculated by the Internal Revenue Service then you "automatically pass" the means test. You are automatically presumed to have filed the bankruptcy in good faith.

The median income is estimated by the number of members in your household (the number of individuals living in your home).

<u>Number of Individuals</u>	<u>Allowed annual income</u>
1	\$46,814
2	\$61,742
3	\$66,611
4	\$76,931

Thus if you have a family consisting of a husband, wife and child and your annual income was less than \$66,611 you would automatically qualify for a Chapter 7

### **Means test (Not Automatic):**

If you have a greater income you may still qualify for a Chapter 7. You will simply have to take the "secondary means test". You can contact our office or connect to the web site listed below and insert your information on a secure site. We can then calculate your means test and determine if you can still qualify to file a Chapter 7 bankruptcy.

The secondary means test deducts certain allowable expenses for such items as car payments and other items that are specific to Riverside County Central District (for those filing in Riverside Bankruptcy Court) to determine your qualification.

### **What happens if I fail both the automatic and secondary means test?**

If you do not qualify under either of the two tests then you may still file for Chapter 13 bankruptcy. The Chapter 13 bankruptcy is basically a debt repayment plan.

### **I want to take the means test can I do it online?**

Yes, we have joined with Collier TopForm Web-Based Questionnaire program to allow our clients to insert their financial information online. Once the information is inserted you must contact our office at 760 776-1150. We will then schedule an appointment with you and go over our results. The appointment with one of our attorneys is free. There is a charge of \$200.00 for the means test that will be deducted from our bankruptcy fee if you pass the means test and decide to retain our office to file your Chapter 7 Bankruptcy.

### **Procedure for online means test:**

1. Link to Collier TopForm Web-Based Questionnaire at <http://www.lexisnexis.com/topformq/login.aspx>
2. Enter Attorney ID number: MBBK258\$8e4460

The attorney ID number is case sensitive.

**3.** Once online simply follow instructions and insert your information. The information that is imputed will be used in the preparation of your Chapter 7 bankruptcy filing. If you have an questions please do not hesitate to contact our Palm Desert office at 760 320-8345