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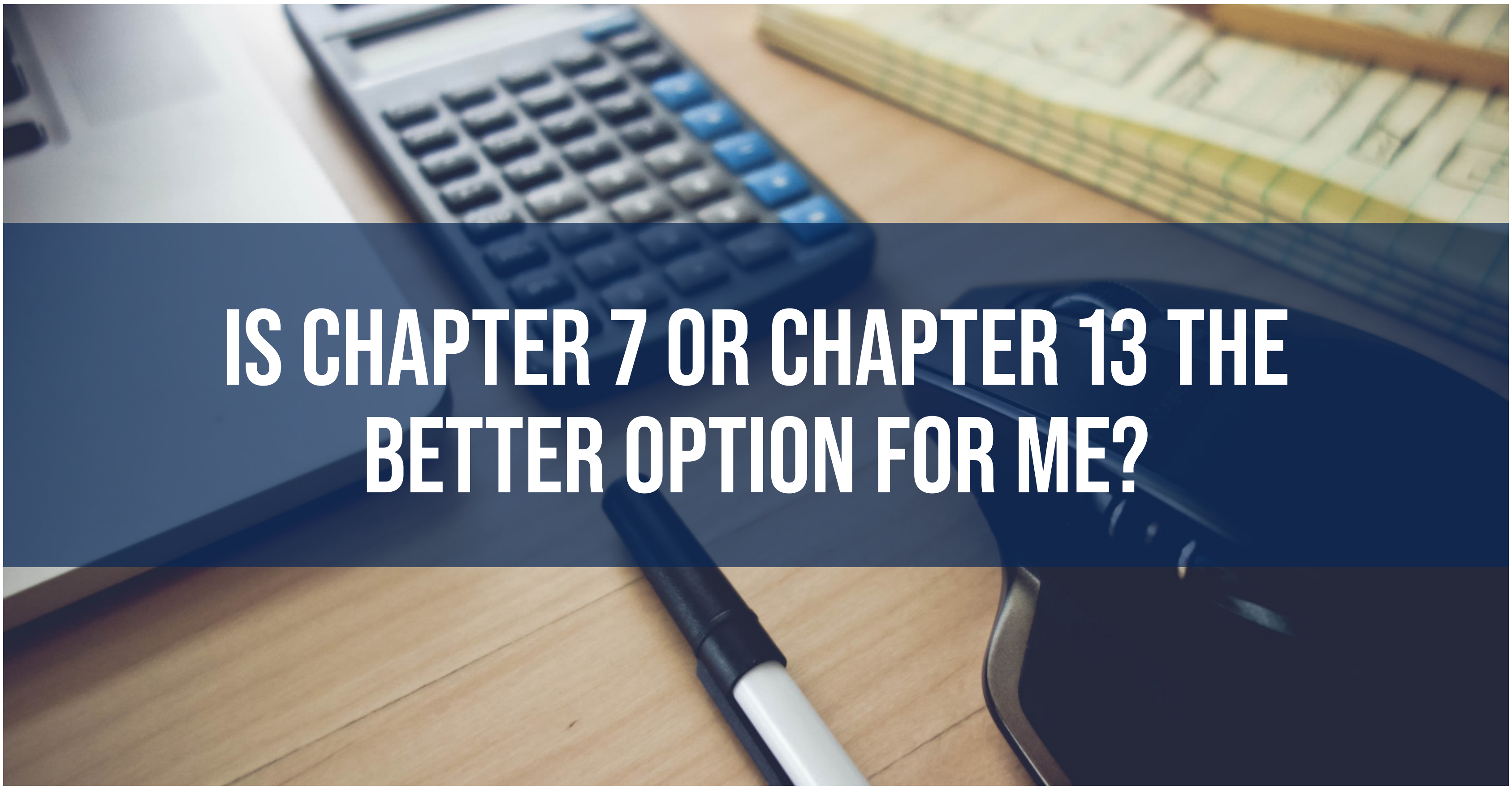


# IS CHAPTER 7 OR CHAPTER 13 THE BETTER OPTION FOR ME?

Many factors must be evaluated to determine whether Chapter 7 or Chapter 13 is the better type of bankruptcy for your circumstances. In a typical Chapter 7 bankruptcy, you do not pay anything to your unsecured creditors unless you have unprotected (non-exempt) assets. The case usually lasts several months and then you receive a discharge, which means you do not have to pay your unsecured debts (with a few exceptions). Chapter 13 bankruptcy does not require liquidation of your unprotected assets to satisfy your creditors. Instead, you make a payment to the bankruptcy court each month, based on your income, expenses, and debt, as part of a repayment plan for a period of 3 to 5 years.

The questions in this quiz will help you weigh some of the most significant factors that affect the decision of which type of bankruptcy you should file. These issues are often complex and consultation with an experienced bankruptcy attorney who can guide you through the decision making process is highly recommended.

## 1. CAN YOU PASS THE MEANS TEST FOR CHAPTER 7?

There is an income qualification test for Chapter 7 called the means test. The purpose of the test is to determine whether you have enough disposable income to repay at least a portion of your debts. The first part of the test compares your annualized household gross income over the previous six months to the median income for others households of the same size in your state. If your family's income is below the median income of a household your size in your state, you qualify to file under Chapter 7. If your family income is higher than the median for your state, you could still qualify for Chapter 7 under the second part of the test, which allows you to deduct reasonable and necessary expenses from your family income.

More information about the means test is available at the United States Trustee's website at: www.justice.gov/ust/means-testing. Sometimes calculating whether you qualify under the means test can require the assistance of a bankruptcy attorney. The income and expense forms can be complicated.

**A. Yes, I pass the means test.**
**B. No, I have too much disposable income to pass the means test.**

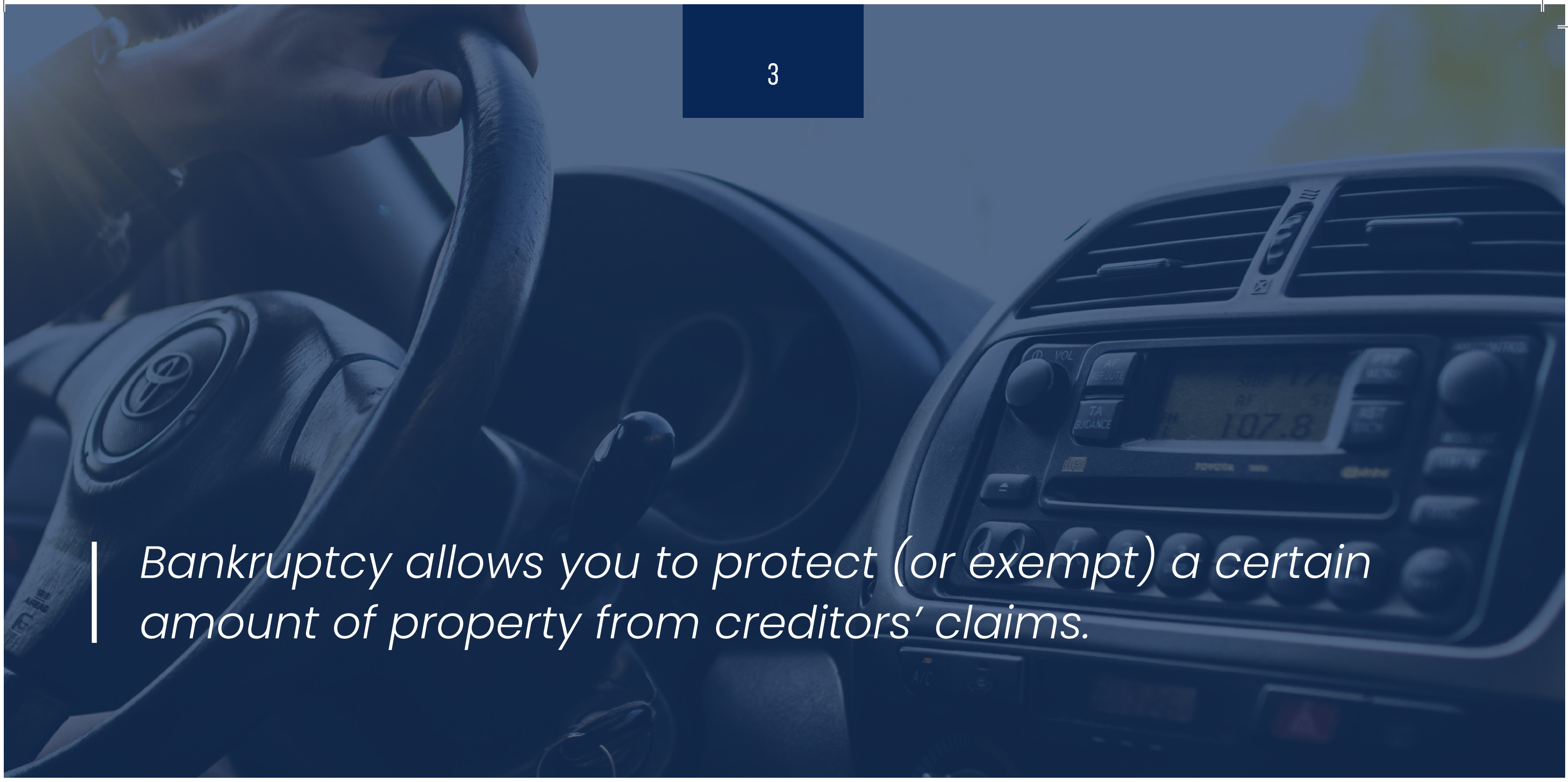
***If you answered yes, your income allows you to qualify for Chapter 7, but you need to consider the factors discussed in this quiz before making a decision.***

Knowing that you qualify for Chapter 7 is the first step in determining if Chapter 7 is the better choice for you. Even though you qualify for Chapter 7, Chapter 13 could provide a better result depending on your situation. The remaining questions in this quiz explore these possibilities.

You may also have timing issues to consider. What matters is whether you qualify for Chapter 7 as of the date you file. Although you may not qualify now, if you've recently had a decrease in income, you may qualify if you can wait a while before filing. A change in your circumstances (job loss, change in household size, a raise or bonus) can qualify you or disqualify you at any point in time.

***If you answered no, you do not qualify for Chapter7 and Chapter 13 might be your only option if you decide to file for bankruptcy.***

If you do not qualify for Chapter 7 but want to receive the benefits of bankruptcy, you should discuss the matter with a qualified bankruptcy attorney. Chapter 13 is not appropriate for everyone. It is a lengthy commitment of 36 to 60 months, with most cases falling in the 60 month category. To receive a discharge, you must devote all your disposable income to your monthly payment. You will need to live on a very tight budget for the duration of your plan. Also, Chapter 13 has debt limits. These limits are adjusted every few years for inflation, but if you have unsecured debt approaching the mid-six figures or secured debt of over one million, you could be over the limit. In that case, you may need to discuss the feasibility of Chapter 11 bankruptcy with a bankruptcy attorney.



*Bankruptcy allows you to protect (or exempt) a certain amount of property from creditors' claims.*

## 2. DO YOU HAVE SIGNIFICANT "NON-EXEMPT" ASSETS THAT YOU WANT TO KEEP?

Bankruptcy allows you to protect (or exempt) a certain amount of property from creditors' claims. Exemption amounts differ from state to state. However, these types of assets are typically exempt: clothing; household furnishings; a modest vehicle; life insurance; a retirement account; tools of your trade; and a home with little to no equity. Assets that tend to be non-exempt include: stocks, bonds, mutual funds, real estate, and other investments; business interests; valuable jewelry, art, antiques, and collectables; a luxury vehicle or more than one vehicle; a home with significant equity or a second home. See Question 3 for more on homes.

**A. Yes, I have significant non-exempt assets.**
**B. No, all or most of my assets are exempt.**

***If you answered yes, Chapter 13 will likely be the better option.***

In Chapter 13, you can keep all your property, including non-exempt assets, so long as you fulfill your obligations under your debt repayment plan and keep up the payments on secured debt. See Question 4.

***If you answered no, and you qualify for Chapter 7 under the means test, Chapter 7 may be the better option, but you need to consider the other factors in this quiz to make an informed decision.***

In Chapter 7, the trustee takes possession of non-exempt assets and sells them to pay creditors. You can keep a non-exempt asset, but only if you are able to buy it back from your bankruptcy estate, which you may not have the funds to do.

## 3. DO YOU HAVE SIGNIFICANT EQUITY IN YOUR HOME?

Most states have a homestead exemption that allows you to keep the equity in your home up to a certain amount. The amount varies greatly from state to state from unlimited to zero. The equity in your home is the difference between the value of your home and the debt that you still owe on it.

**A. Yes, I have significant equity in my home.**
**B. No, I have little to no equity in my home (or I don't own a home).**

***If you answered yes, Chapter 13 will likely be the better option.***

If you file Chapter 7 and the applicable exemptions aren't large enough to cover the equity, you could lose your home. Therefore, if you have significant equity in your home, and significant debt in relation to your income, Chapter 13 is usually the better option. You can keep your home in Chapter 13 bankruptcy if you keep your mortgage current.

***If you answered no, and you qualify for Chapter 7 under the means test, Chapter 7 is an option, but you need to consider the other factors raised by this quiz before making your decision.***


## 4. ARE YOU BEHIND ON YOUR MORTGAGE OR CAR LOAN?

**A. Yes, I am behind on my mortgage or car loan.**

**B. No, I am current with my mortgage and car loan (or I don’t have a mortgage or car loan).**

***If you answered yes, and have sufficient income to repay arrears over several years while keeping up with current payments, Chapter 13 is the better option.***

The Chapter 13 repayment plan can give you a chance to “catch up” on the arrears (i.e. past due payments) on a mortgage or a car loan while you are under the protection of the bankruptcy court. The arrears will be spread out over the course of your 3 to 5 year plan allowing you to avoid penalties.

If your car is worth less than you owe, or you are paying excessive interest, you might be able to propose a “cram-down” of your auto loan. This is a major benefit available in Chapter 13 that is not available in Chapter 7 bankruptcy. Cramming down a car loan in Chapter 13 bankruptcy can reduce your balance, cut your interest rate, and slash your payment. The loan must be older than 910 days.

***If you answered no, and you qualify for Chapter 7, that is usually the best option.***

If you have little income, high unsecured debts, and all your assets are protected by exemptions, Chapter 7 is usually the better choice. However, consulting with a qualified bankruptcy attorney will ensure you have considered all factors that could affect the decision.

## 5. ARE YOU BEHIND ON SIGNIFICANT NON-DISCHARGEABLE OBLIGATIONS, SUCH AS CHILD SUPPORT, ALIMONY, OR CERTAIN TYPES OF TAXES?

Certain debts cannot be discharged in bankruptcy including child support, alimony, some back taxes, penalties, and student loans. This means, you will still owe them after your bankruptcy is completed.

**A. Yes, I owe back child support, alimony, or taxes, or other non-dischargeable debt.**
**B. No, I do not owe arrearages on any significant non-dischargeable obligations.**

***If you answered yes, Chapter 13 might be the only bankruptcy option that makes sense for you.***

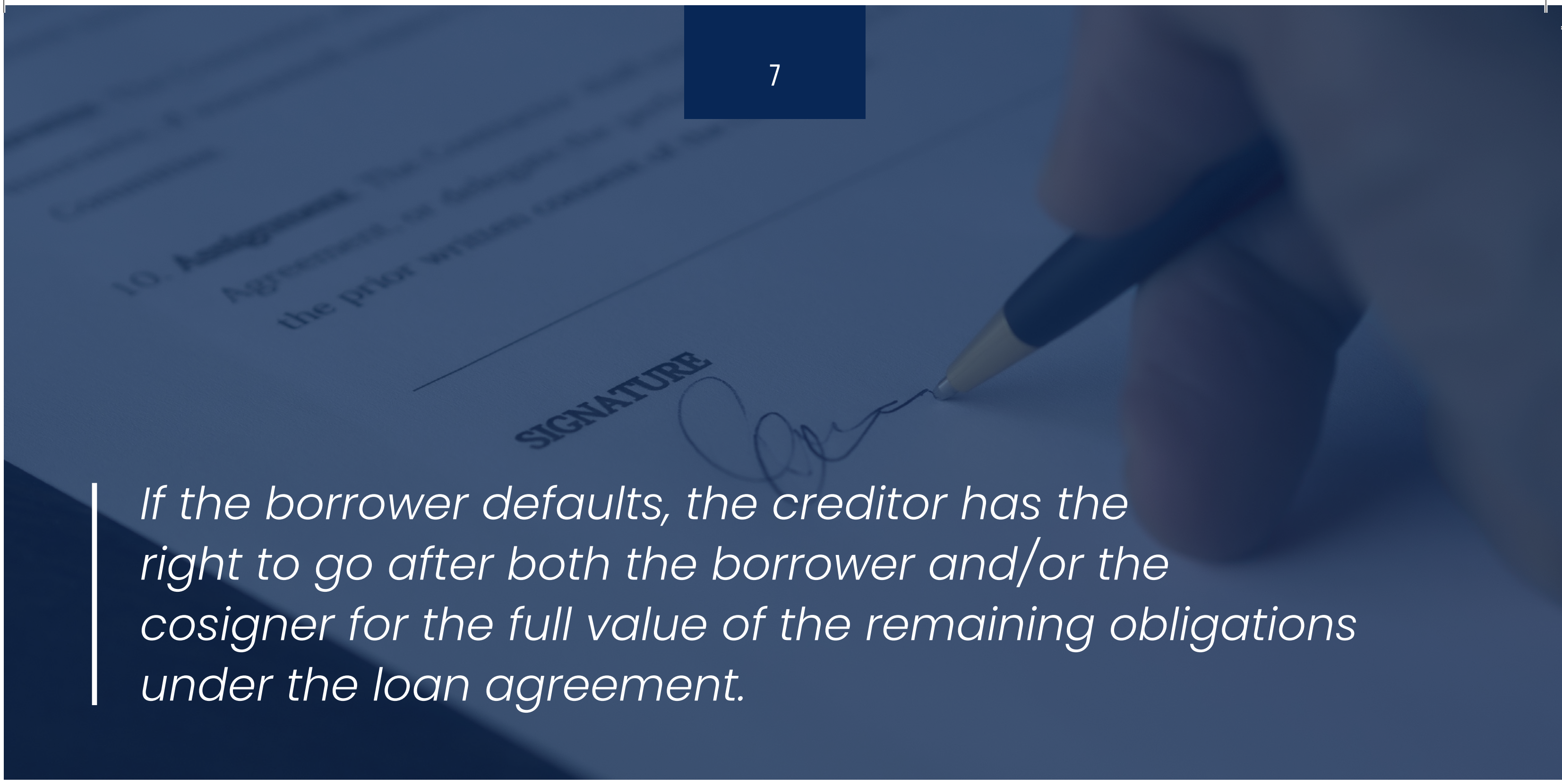
Chapter 13 will give you a chance to pay these arrearages off over the course of your 3 to 5 year repayment plan. While you are making payments under your plan, the automatic stay will protect you from most collection efforts and will stop penalties from accruing on back taxes. Back child support, alimony, and unpaid federal income taxes that are not dischargeable in bankruptcy are generally priority debts that must be paid in full through your Chapter 13 repayment plan. These payments are in addition to your regular monthly payment obligations such as rent, mortgage, living expenses, car loans, etc.

If instead you file under Chapter 7, immediately after discharge, you will still owe the back child support, alimony, or tax debt and your ex-spouse or the government has the right to continue to impose penalties, garnish wages, file levies, and so forth in an effort to collect.

Contrary to popular belief, some back taxes can be discharged in bankruptcy. If you owe back taxes, you'll want to consult a bankruptcy attorney to determine whether any of your tax debt is dischargeable. The rules are very complicated.

***If you answered no, and you qualify for Chapter 7 under the means test, Chapter 7 is usually the better option.***

To reiterate, if you have little income, high unsecured debts, and all your assets are protected, Chapter 7 is usually the more appropriate option. However, consulting with a qualified bankruptcy attorney will ensure you have considered all possible variables.



> *If the borrower defaults, the creditor has the right to go after both the borrower and/or the cosigner for the full value of the remaining obligations under the loan agreement.*

## 6. DOES YOUR DEBT HAVE COSIGNERS?

A cosigner is someone who agrees to pay the debt if the borrower is unable to do so. For example, a parent might cosign on a credit card for an adult child who does not have good credit or has not yet established a credit history. Cosigners are fully liable for the debts they cosign. If the borrower defaults, the creditor has the right to go after both the borrower and/or the cosigner for the full value of the remaining obligations under the loan agreement.

**A. Yes, I have a debt with a cosigner.**
**B. No, my debts have no cosigners.**

***If you answered yes, you might prefer Chapter 13 to Chapter 7 so that your cosigner will not be stuck paying off your debt.***

If you declare Chapter 7 bankruptcy, your debt is discharged and you are no longer legally liable to pay the debt. However, the cosigner remains obligated for the full amount of the debt until it is repaid. If, however, you pay off the debt as part of a Chapter 13 repayment plan, the cosigner will be protected.

***If you answered B, Chapter 7 may be the better option if the other factors in this quiz point to Chapter 7.***

# SUMMING UP CHECKLIST

**Chapter 7 is probably better if:**

- You pass the means test and do not have enough disposable income to fund a Chapter 13 plan. You have mostly unsecured dischargeable debts such as medical bills, credit cards, and personal loans for which you have pledged no collateral.
- The equity in your home is protected by the applicable homestead exemption or you don't own a home.
- You have little or no other non-exempt property.
- You are not behind on a mortgage or car loan or other secured debt or you are prepared to lose the property.
- You have no cosigners that you want to protect.

**Chapter 13 is probably better if:**

- You have enough disposable income to fund a repayment plan.
- You want to keep your home and you have more equity in it than you can protect with applicable exemptions.
- You have other non-exempt assets that you would like to keep.
- You are behind on your mortgage or car loan (or other secured debt) and want to catch up so that you can keep the property or you are underwater on your car loan.
- You are behind on non-dischargeable debts (alimony, child support, taxes, fines and penalties, student loans).
- You have a cosigner whom you don't want to be responsible for your debt once you are discharged.