

Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)

This notice is for you if:

You are an individual filing for bankruptcy,
and

Your debts are primarily consumer debts.
Consumer debts are defined in 11 U.S.C.
§ 101(8) as “incurred by an individual
primarily for a personal, family, or
household purpose.”

The types of bankruptcy that are available to individuals

Individuals who meet the qualifications may file under one of four different chapters of the Bankruptcy Code:

- Chapter 7 — Liquidation
- Chapter 11 — Reorganization
- Chapter 12 — Voluntary repayment plan for family farmers or fishermen
- Chapter 13 — Voluntary repayment plan for individuals with regular income

You should have an attorney review your decision to file for bankruptcy and the choice of chapter.

Chapter 7: Liquidation

	\$245	filing fee
	\$78	administrative fee
+	\$15	trustee surcharge
	\$338	total fee

Chapter 7 is for individuals who have financial difficulty preventing them from paying their debts and who are willing to allow their non-exempt property to be used to pay their creditors. The primary purpose of filing under chapter 7 is to have your debts discharged. The bankruptcy discharge relieves you after bankruptcy from having to pay many of your pre-bankruptcy debts. Exceptions exist for particular debts, and liens on property may still be enforced after discharge. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

However, if the court finds that you have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge.

You should know that even if you file chapter 7 and you receive a discharge, some debts are not discharged under the law. Therefore, you may still be responsible to pay:

- most taxes;
- most student loans;
- domestic support and property settlement obligations;

- most fines, penalties, forfeitures, and criminal restitution obligations; and
- certain debts that are not listed in your bankruptcy papers.

You may also be required to pay debts arising from:

- fraud or theft;
- fraud or defalcation while acting in breach of fiduciary capacity;
- intentional injuries that you inflicted; and
- death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs.

If your debts are primarily consumer debts, the court can dismiss your chapter 7 case if it finds that you have enough income to repay creditors a certain amount. You must file *Chapter 7 Statement of Your Current Monthly Income* (Official Form 122A-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income that applies in your state.

If your income is not above the median for your state, you will not have to complete the other chapter 7 form, the *Chapter 7 Means Test Calculation* (Official Form 122A-2).

If your income is above the median for your state, you must file a second form—the *Chapter 7 Means Test Calculation* (Official Form 122A-2). The calculations on the form—sometimes called the *Means Test*—deduct from your income living expenses and payments on certain debts to determine any amount available to pay unsecured creditors. If

your income is more than the median income for your state of residence and family size, depending on the results of the *Means Test*, the U.S. trustee, bankruptcy administrator, or creditors can file a motion to dismiss your case under § 707(b) of the Bankruptcy Code. If a motion is filed, the court will decide if your case should be dismissed. To avoid dismissal, you may choose to proceed under another chapter of the Bankruptcy Code.

If you are an individual filing for chapter 7 bankruptcy, the trustee may sell your property to pay your debts, subject to your right to exempt the property or a portion of the proceeds from the sale of the property. The property, and the proceeds from property that your bankruptcy trustee sells or liquidates that you are entitled to, is called *exempt property*. Exemptions may enable you to keep your home, a car, clothing, and household items or to receive some of the proceeds if the property is sold.

Exemptions are not automatic. To exempt property, you must list it on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

Chapter 11: Reorganization

	\$1,167	filing fee
+	\$571	administrative fee
	\$1,738	total fee

Chapter 11 is often used for reorganizing a business, but is also available to individuals. The provisions of chapter 11 are too complicated to summarize briefly.

Read These Important Warnings

Because bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire an attorney and carefully consider all of your options before you file. Only an attorney can give you legal advice about what can happen as a result of filing for bankruptcy and what your options are. If you do file for bankruptcy, an attorney can help you fill out the forms properly and protect you, your family, your home, and your possessions.

Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it difficult to represent themselves successfully. The rules are technical, and a mistake or inaction may harm you. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.

You should not file for bankruptcy if you are not eligible to file or if you do not intend to file the necessary documents.

Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Chapter 12: Repayment plan for family farmers or fishermen

	\$200	filing fee
+	\$78	administrative fee
	\$278	total fee

Similar to chapter 13, chapter 12 permits family farmers and fishermen to repay their debts over a period of time using future earnings and to discharge some debts that are not paid.

Chapter 13: Repayment plan for individuals with regular income

	\$235	filing fee
+	\$78	administrative fee
	\$313	total fee

Chapter 13 is for individuals who have regular income and would like to pay all or part of their debts in installments over a period of time and to discharge some debts that are not paid. You are eligible for chapter 13 only if your debts are not more than certain dollar amounts set forth in 11 U.S.C. § 109.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, usually using your future earnings. If the court approves your plan, the court will allow you to repay your debts, as adjusted by the plan, within 3 years or 5 years, depending on your income and other factors.

After you make all the payments under your plan, many of your debts are discharged. The debts that are not discharged and that you may still be responsible to pay include:

- domestic support obligations,
- most student loans,
- certain taxes,
- debts for fraud or theft,
- debts for fraud or defalcation while acting in a fiduciary capacity,
- most criminal fines and restitution obligations,
- certain debts that are not listed in your bankruptcy papers,
- certain debts for acts that caused death or personal injury, and
- certain long-term secured debts.

Warning: File Your Forms on Time

Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information about your creditors, assets, liabilities, income, expenses and general financial condition. The court may dismiss your bankruptcy case if you do not file this information within the deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

For more information about the documents and their deadlines, go to:

<http://www.uscourts.gov/forms/bankruptcy-forms>

Bankruptcy crimes have serious consequences

- If you knowingly and fraudulently conceal assets or make a false oath or statement under penalty of perjury—either orally or in writing—in connection with a bankruptcy case, you may be fined, imprisoned, or both.
- All information you supply in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the U.S. Trustee, the Office of the U.S. Attorney, and other offices and employees of the U.S. Department of Justice.

Make sure the court has your mailing address

The bankruptcy court sends notices to the mailing address you list on *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). To ensure that you receive information about your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address.

A married couple may file a bankruptcy case together—called a *joint case*. If you file a joint case and each spouse lists the same mailing address on the bankruptcy petition, the bankruptcy court generally will mail you and your spouse one copy of each notice, unless you file a statement with the court asking that each spouse receive separate copies.

Understand which services you could receive from credit counseling agencies

The law generally requires that you receive a credit counseling briefing from an approved credit counseling agency. 11 U.S.C. § 109(h). If you are filing a joint case, both spouses must receive the briefing. With limited exceptions, you must receive it within the 180 days **before** you file your bankruptcy petition. This briefing is usually conducted by telephone or on the Internet.

In addition, after filing a bankruptcy case, you generally must complete a financial management instructional course before you can receive a discharge. If you are filing a joint case, both spouses must complete the course.

You can obtain the list of agencies approved to provide both the briefing and the instructional course from: <http://www.uscourts.gov/services-forms/bankruptcy/credit-counseling-and-debtor-education-courses>.

In Alabama and North Carolina, go to:

<http://www.uscourts.gov/services-forms/bankruptcy/credit-counseling-and-debtor-education-courses>.

If you do not have access to a computer, the clerk of the bankruptcy court may be able to help you obtain the list.

DISCLOSURE #2

**NOTICE TO CONSUMER DEBTORS
ON INFORMATION REQUIRED IN BANKRUPTCY CASES
(Pursuant to 11 U.S.C. 527(a)(2))**

The bankruptcy code requires you to provide complete and accurate information about your debts, property and financial affairs. We take this requirement very seriously. We want you to understand these requirements clearly.

- (A) All information that you are required to provide with a bankruptcy petition and thereafter during your bankruptcy case is required to be complete, accurate and truthful.
- (B) In the documents you have me file with the court to commence your bankruptcy case and thereafter, you must completely and accurately disclose all your assets and all of your liabilities. You must provide the replacement value without deducting the costs of sale or marketing as of the date you file of each item of personal property (property other than real estate) that is subject to a lien or security interest. You must make a reasonable inquiry to establish this value. If you acquired the property primarily for personal, family or household purposes, "replacement value" means the price a retail merchant would charge for an item of that kind given the age and condition of the item at the time you file.
- (C) You must accurately provide after reasonable inquiry, your current monthly income, the amounts specified in 11 U.S.C. § 707(b)(2) and in a case under Chapter 13, disposable income (determined in accordance with § 707 (b)(2)).
- (D) Information you provide during your case may be audited pursuant to the Bankruptcy Code. Failure to provide accurate information may result in dismissal of your case or other sanction including a criminal sanction.

I have received a copy of this notice

Signature of Assisted Person

Address

Printed Name of Assisted Person

City, State, Zip

Last 4 Digits of Social Security Number

Telephone Number

DISCLOSURE #3

**IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE
SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER
(Pursuant to 11 U.S.C. § 527(b))**

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a "trustee" and by creditors.

If you choose to file a Chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

If you choose to file a Chapter 13 case in which you repay your creditors what you can afford over three (3) to five (5) years, you may also want help with preparing your Chapter 13 plan and with the confirmation hearing on your plan, which will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than Chapter 7 or Chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.

I have received a copy of this notice

Signature of Assisted Person

Address

Printed Name of Assisted Person

City, State, Zip

Last 4 Digits of Social Security Number

DISCLOSURE #4

NOTICE TO ASSISTED PERSON ON HOW TO PROVIDE ALL THE INFORMATION REQUIRED UNDER THE BANKRUPTCY CODE PURSUANT TO 11 U.S.C. § 521 (Pursuant to 11 U.S.C. § 527(c))

A. Assets and Income.

1. Valuation:

Examples of how to value assets at replacement value include:

a. Vehicles

- www.nadaguides.com (retail value).
- Written replacement value from a dealer or insurance agent.
- Newspaper advertisements.
- Tax records (online or request copy from tax assessor)
- www.cars.com (private party value)

b. Real Estate

- We can provide an appraised value of your home for a fee of \$17 per parcel of real property.
- Obtain a realtor to provide you with a written value.
- Obtain the recent appraisal of your home. If you purchased your home recently, your lender may have a copy.
- Check the MLS listings.
- Use your best estimate based upon your purchase price.
- Improvements, amount you would accept to sell your home.
- Online tax records or request copy from tax assessor.
- www.zillow.com

c. Personal property

- Think of what you would pay to replace the item with an exact match.
- Online tax records or request copy from tax assessor.
- Insurance policies may contain replacement value.
- eBay

2. Current monthly income

a. Means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the six-month period ending on:

- (i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by § 521(a)(1)(B)(ii); or
- (ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by § 521(a)(1)(B)(ii); and
- (iii) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint

case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of international terrorism (as defined in § 2331 of title 18) on account of their status as victims of such terrorism.

- b. Provide a copy of your last six-month's income.
 - c. If you are self employed and do not receive pay stubs, provide documentation of the income you received monthly for the previous six months less any business expenses you paid out of pocket.
 - d. Provide proof of alimony or child support.
 - e. Provide proof of other financial assistance.
 - f. Copies of your last 2 years filed tax returns.
 - g. Provide all information correctly and completely as requested on your Debtor Questionnaire and answer our follow up questions completely, accurately and timely.
3. Complete lists of creditors
- a. For \$37 per person (\$74 per couple) we can obtain a copy of your credit report, containing information from all three credit bureaus. We require you pay this fee and obtain a credit report through us even if you have another credit report pulled.
 - b. Provide copies of the previous two pieces of correspondence you have received from each creditor.
4. Exempt property

The state legislature lists most exempt property in S.C. Code Annotated § 15-41-30 *et al.* We will attempt to determine the extent of your available exemptions. If you have not lived in SC for 2 years, you will not be eligible to use these exemptions. Most likely, you will use either your former state's exemptions or the federal exemptions.

I have received a copy of this notice

Signature of Assisted Person

Address

Printed Name of Assisted Person

City, State, Zip

Last 4 Digits of Social Security Number

DISCLOSURE #5

**WRITTEN CONTRACT
(Pursuant to 11 U.S.C. § 528(a))**

Moore Taylor Law Firm, P.A. is a debt relief agency. We help people file for bankruptcy relief under the bankruptcy code. You have requested our assistance as specified herein:

You have requested an initial consultation consisting of an overview of the bankruptcy process, the difference in Chapter 7 and Chapter 13 and generally, how the filing of bankruptcy affects secured and unsecured debt. For a maximum of a 30-minute, one-time general information session pertaining to your consumer debts, there is no charge. Beyond the 30-minute session or for a consult pertaining to your specific situation, you agree to pay a fee of \$420 per hour. Similarly, if the discussion pertains to debts of another, for example, where you are a creditor or the session pertains to business debts, the fee is \$420 per hour to be paid today.

If the box remains unchecked, the Assisted Person has not retained Jane H. Downey or Moore Taylor Law Firm, P.A. to perform any services in the future. If this box is checked, the Assisted Person has paid a partial fee to retain Moore Taylor Law Firm, P.A. to perform future services beyond the initial consultation, such as to begin preparing paperwork toward a bankruptcy filing. Specifically, the Assisted Person is interested in preparing a Ch 7/11/13 (circle one) case knowing (s)he will need to pay all fees to be charged, provide all information necessary to file and must qualify for the selected chapter. All fees paid are nonrefundable as fees paid will be applied to the consultation and work performed thereafter. No further work will begin beyond the consultation until at least \$800 of the fee is paid. This fee applies even if a potential conflict is discovered or if the Assisted Person decides not to file bankruptcy after making the payment. This is not the final fee for services. The remainder of the fee will depend upon the extent of work involved and chapter filed. All costs must be paid prior to the filing. Costs include at least \$37 to this firm to cover pulling a credit report, and may include fees for an appraisal, tax transcripts, or to cover costs of mail and postage. In addition, the Assisted Person also must pay the applicable court fee, which currently is \$313 for a Chapter 13 case and \$338 for a Chapter 7 case. The Assisted Person understands (s)he cannot file bankruptcy unless within 180 days of filing, (s)he attends an approved credit counseling course and obtains a certificate.

I have received a copy of this notice:

Signature of Assisted Person

Address

Printed Name of Assisted Person

City, State, Zip

Last 4 Digits of Social Security Number

Please take a moment to let us know how you found this firm (referral, specific web site, telephone book, etc): _____

ATTORNEY'S NOTES

EXPECTED CHAPTER TO FILE:

EXPECTED FEES IF FILED WITHIN 30 DAYS:

INFORMATION TO CONSIDER IN PREPARING CASE:

IS A FORECLOSURE PENDING?

HAS DEBTOR LIVED IN SC LESS THAN 2 YEARS?