



Important Deadline Information for Creditors

Important: There are many deadlines in bankruptcy cases that affect your rights and responsibilities as a creditor. It is your responsibility to understand those deadlines or the consequence may be that you lose your right to object to something. Failing to meet these deadlines can have serious and negative effects.

This notice lists just a few of the most critical deadlines. However, deadlines may vary depending on the chapter and type of case filed and current status of the case or proceeding. This notice is solely to provide general procedural information and is not to be relied on for a statement of all deadlines that apply in your particular case or proceeding, nor should it be relied upon as complete information regarding your responsibilities related to deadlines. It is not to be used as a substitute for reviewing the applicable statutes, rules and court orders and obtaining competent legal advice in your specific case.

Please note: Many deadlines for creditors are contained in the Notice of Commencement of Case that is mailed shortly after the case is filed to all creditors listed in the case at the time of mailing of the notice. If you did not receive a copy of this notice, contact the attorney for the debtor for a copy. If you prefer, contact the clerk's office for information on how to obtain one from the court records. In addition you should review all other notices and orders you receive in the case and review the case docket carefully to determine if any deadlines apply to you.

DEADLINE FOR FILING PROOF OF CLAIMS: In an asset case, this deadline will be stated in the Notice of Commencement of Case. If a claims deadline is not set in a no asset case, if assets are later available, the court will enter an order setting a claims bar deadline. A Proof of Claim is a signed statement describing a creditor's claim. Use the Official Bankruptcy Form "Proof of Claim" when filing your claim. You can access the form at www.flsh.uscourts.gov/web_folder/ElectronicFilingProofofclaims.html or you may use this court's online fillable proof of claim form to submit your proof of claim electronically at this site <https://ecf.flsh.uscourts.gov/cgi-bin/autoFilingClaims.pl>. Claims not filed via CM/ECF can be filed at any clerk's office location. If filing your claim conventionally (in paper form), enclose a copy of the claim and an adequate sized stamped self addressed envelope. If you are filing your claim electronically on the court's website, you will be able to print a file dated copy of the claim at the time of filing. If the debtor is not represented by an attorney, you must serve copies of the claim including all attachments, upon the debtor via U.S. Mail. See Local Rule 3002-1(E).

DEADLINE FOR FILING COMPLAINTS TO DETERMINE DISCHARGEABILITY OF DEBTS

If you believe that a debt owed to you is not dischargeable under the Bankruptcy Code, please be aware that for some types of debts there is a deadline for you to start a lawsuit by filing a complaint in the bankruptcy clerk's office. This deadline can be found under the title "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side of the Notice of Commencement of Case. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline. Writing a letter to the court or judge is not sufficient. An adversary complaint must be filed in accordance with the applicable rules. Other types of debts for which this deadline does not apply may also require the filing of an adversary complaint to determine dischargeability. It is your responsibility to determine if the debt owed you falls under the category that requires you to file a complaint by the deadline for filing complaints to determine dischargeability of debts.

DEADLINE FOR FILING COMPLAINTS OBJECTING TO DISCHARGE OF THE DEBTOR:

The debtor is seeking a discharge of most debts, which may include your debt. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code §727(a) or that a debt owed to you is not dischargeable under Bankruptcy Code §523(a)(2), (4), or (6), you must start a lawsuit by filing a complaint – file a motion if you assert the discharge should be denied under §727(a)(8) or (a)(9) – by the “Deadline to Object to Debtor’s Discharge or to Challenge Dischargeability of Certain Debts” listed on the front side of the Notice of Commencement of Case. The bankruptcy clerk’s office must receive the complaint or motion and the required filing fee by that deadline. Writing a letter to the court or judge is not sufficient. The discharge will not be issued until the Official Bankruptcy Form “Debtor’s Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management” is filed by the debtor.

DEADLINE FOR OBJECTION TO EXEMPTIONS: The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objections by the "Deadline to Object to Exemptions" listed on the front side of the Notice of Commencement of Case.

The following pages provide general information about the discharge in bankruptcy. These pages are an excerpt from the Administrative Office of the US Courts publication. The entire publication can be found at the following link: "[Bankruptcy Basics](#)"

The Discharge in Bankruptcy

The bankruptcy discharge varies depending on the type of case a debtor files: chapter 7, 11, 12, or 13. Bankruptcy Basics attempts to answer some basic questions about the discharge available to *individual debtors* under all four chapters including:

1. What is a discharge in bankruptcy?
2. When does the discharge occur?
3. How does the debtor get a discharge?
4. Are all the debtor's debts discharged or only some?
5. Does the debtor have a right to a discharge or can creditors object to the discharge?
6. Can the debtor receive a second discharge in a later case?
7. Can the discharge be revoked?
8. May the debtor pay a discharged debt after the bankruptcy case has been concluded?
9. What can the debtor do if a creditor attempts to collect a discharged debt after the case is concluded?
10. May an employer terminate a debtor's employment solely because the person was a debtor or failed to repay a discharged debt?

WHAT IS A DISCHARGE IN BANKRUPTCY?

A bankruptcy discharge releases the debtor from personal liability for certain specified types of debts. In other words, the debtor is no longer legally required to pay any debts that are discharged. The discharge is a permanent order prohibiting the creditors of the debtor from taking any form of collection action on discharged debts, including legal action and communications with the debtor, such as telephone calls, letters, and personal contacts.

Although a debtor is not personally liable for discharged debts, a valid lien (*i.e.*, a charge upon specific property to secure payment of a debt) that has not been avoided (*i.e.*, made unenforceable) in the bankruptcy case will remain after the bankruptcy case. Therefore, a secured creditor may enforce the lien to recover the property secured by the lien.

WHEN DOES THE DISCHARGE OCCUR?

The timing of the discharge varies, depending on the chapter under which the case is filed. In a chapter 7 (liquidation) case, for example, the court usually grants the discharge promptly on expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case for substantial abuse (60 days following the first date set for the 341 meeting). Typically, this occurs about four months after the date the debtor files the petition with the clerk of the bankruptcy court. In individual chapter 11 cases, and in cases under chapter 12 (adjustment of debts of a family farmer or fisherman) and 13 (adjustment of debts of an individual with regular income), the court generally grants the discharge as soon as

practicable after the debtor completes all payments under the plan. Since a chapter 12 or chapter 13 plan may provide for payments to be made over three to five years, the discharge typically occurs about four years after the date of filing. The court may deny an individual debtor's discharge in a chapter 7 or 13 case if the debtor fails to complete "an instructional course concerning financial management." The Bankruptcy Code provides limited exceptions to the "financial management" requirement if the U.S. trustee or bankruptcy administrator determines there are inadequate educational programs available, or if the debtor is disabled or incapacitated or on active military duty in a combat zone.

HOW DOES THE DEBTOR GET A DISCHARGE?

Unless there is litigation involving objections to the discharge, the debtor will usually automatically receive a discharge. The Federal Rules of Bankruptcy Procedure provide for the clerk of the bankruptcy court to mail a copy of the order of discharge to all creditors, the U.S. trustee, the trustee in the case, and the trustee's attorney, if any. The debtor and the debtor's attorney also receive copies of the discharge order. The notice, which is simply a copy of the final order of discharge, is not specific as to those debts determined by the court to be non-dischargeable, *i.e.*, not covered by the discharge. The notice informs creditors generally that the debts owed to them have been discharged and that they should not attempt any further collection. They are cautioned in the notice that continuing collection efforts could subject them to punishment for contempt. Any inadvertent failure on the part of the clerk to send the debtor or any creditor a copy of the discharge order promptly within the time required by the

rules does not affect the validity of the order granting the discharge.

ARE ALL OF THE DEBTOR'S DEBTS DISCHARGED OR ONLY SOME?

Not all debts are discharged. The debts discharged vary under each chapter of the Bankruptcy Code. Section 523(a) of the Code specifically excepts various categories of debts from the discharge granted to individual debtors. Therefore, the debtor must still repay those debts after bankruptcy. Congress has determined that these types of debts are not dischargeable for public policy reasons (based either on the nature of the debt or the fact that the debts were incurred due to improper behavior of the debtor, such as the debtor's drunken driving).

There are 19 categories of debt excepted from discharge under chapters 7, 11, and 12. A more limited list of exceptions applies to cases under chapter 13.

Generally speaking, the exceptions to discharge apply automatically if the language prescribed by section 523(a) applies. The most common types of nondischargeable debts are certain types of tax claims, debts not set forth by the debtor on the lists and schedules the debtor must file with the court, debts for spousal or child support or alimony, debts for willful and malicious injuries to person or property, debts to governmental units for fines and penalties, debts for most government funded or guaranteed educational loans or benefit overpayments, debts for personal injury caused by the debtor's operation of a motor vehicle while intoxicated, debts owed to certain tax-advantaged retirement plans, and debts for certain condominium or cooperative housing fees.

The types of debts described in sections 523(a)(2), (4) and(6) (obligations affected by fraud or maliciousness) are not automatically excepted from discharge. Creditors must ask the court to determine that these debts are excepted from discharge. In the absence of an affirmative request by the creditor and the granting of the request by the court, the types of debts set out in sections 523(a)(2), (4) and (6) will be discharged.

A slightly broader discharge of debts is available to a debtor in a chapter 13 case than in a chapter 7 case. Debts dischargeable in a chapter 13, but not in chapter 7, include debts for willful and malicious injury to property, debts incurred to pay non-dischargeable tax obligations, and debts arising from property settlements in divorce or separation proceedings. Although a chapter 13 debtor generally receives a discharge only after completing all payments required by the court-approved (*i.e.*, “confirmed”) repayment plan, there are some limited circumstances under which the debtor may request the court to grant a “hardship discharge” even though the debtor has failed to complete plan payments. Such a discharge is available only to a debtor whose failure to complete plan payments is due to circumstances beyond the debtor’s control. The scope of a chapter 13 “hardship discharge” is similar to that in a chapter 7 case with regard to the types of debts that are excepted from the discharge. A hardship discharge also is available in chapter 12 if the failure to complete plan payments is due to “circumstances for which the debtor should not justly be held accountable.”

DOES THE DEBTOR HAVE THE RIGHT TO A DISCHARGE OR CAN CREDITORS OBJECT TO THE DISCHARGE?

In chapter 7 cases, the debtor does not have an absolute right to a discharge. An objection to the debtor’s discharge may be filed by a creditor, by the trustee in the case, or by the U.S. trustee. Creditors receive a notice shortly after the case is filed that sets forth much important information, including the deadline for objecting to the discharge. To object to the debtor’s discharge, a creditor must file a complaint in the bankruptcy court before the deadline set out in the notice. Filing a complaint starts a lawsuit referred to in bankruptcy as an “adversary proceeding.”

The court may deny a chapter 7 discharge for any of the reasons described in section 727(a) of the Bankruptcy Code, including failure to provide requested tax documents; failure to complete a course on personal financial management; transfer or concealment of property with intent to hinder, delay, or defraud creditors; destruction or concealment of books or records; perjury and other fraudulent acts; failure to account for the loss of assets; violation of a court order or an earlier discharge in an earlier case commenced within certain time frames (discussed below) before the date the petition was filed. If the issue of the debtor’s right to a discharge goes to trial, the objecting party has the burden of proving all the facts essential to the objection.

In chapter 12 and chapter 13 cases, the debtor is usually entitled to a discharge upon completion of all payments under the plan. As in chapter 7, however, discharge may not occur in chapter 13 if the debtor fails to complete a required course on personal

financial management. A debtor is also ineligible for a discharge in chapter 13 if he or she received a prior discharge in another case commenced within time frames discussed the next paragraph. Unlike chapter 7, creditors do not have standing to object to the discharge of a chapter 12 or chapter 13 debtor. Creditors can object to confirmation of the repayment plan, but cannot object to the discharge if the debtor has completed making plan payments.

CAN A DEBTOR RECEIVE A SECOND DISCHARGE IN A LATER CHAPTER 7 CASE?

The court will deny a discharge in a later chapter 7 case if the debtor received a discharge under chapter 7 or chapter 11 in a case filed within eight years before the second petition is filed. The court will also deny a chapter 7 discharge if the debtor previously received a discharge in a chapter 12 or chapter 13 case filed within six years before the date of the filing of the second case unless (1) the debtor paid all “allowed unsecured” claims in the earlier case in full, or (2) the debtor made payments under the plan in the earlier case totaling at least 70 percent of the allowed unsecured claims and the debtor’s plan was proposed in good faith and the payments represented the debtor’s best effort. A debtor is ineligible for discharge under chapter 13 if he or she received a prior discharge in a chapter 7, 11, or 12 case filed four years before the current case or in a chapter 13 case filed two years before the current case.

CAN THE DISCHARGE BE REVOKED?

The court may revoke a discharge under certain circumstances. For example, a trustee, creditor, or the U.S. trustee may request that the court revoke the debtor’s discharge in a

chapter 7 case based on allegations that the debtor: obtained the discharge fraudulently; failed to disclose the fact that he or she acquired or became entitled to acquire property that would constitute property of the bankruptcy estate; committed one of several acts of impropriety described in section 727(a)(6) of the Bankruptcy Code; or failed to explain any misstatements discovered in an audit of the case or fails to provide documents or information requested in an audit of the case. Typically, a request to revoke the debtor’s discharge must be filed within one year of the discharge or, in some cases, before the date that the case is closed. The court will decide whether such allegations are true and, if so, whether to revoke the discharge.

In a chapter 11, 12 and 13 cases, if confirmation of a plan or the discharge is obtained through fraud, the court can revoke the order of confirmation or discharge.

MAY THE DEBTOR PAY A DISCHARGED DEBT AFTER THE BANKRUPTCY CASE HAS BEEN CONCLUDED?

A debtor who has received a discharge may voluntarily repay any discharged debt. A debtor may repay a discharged debt even though it can no longer be legally enforced. Sometimes a debtor agrees to repay a debt because it is owed to a family member or because it represents an obligation to an individual for whom the debtor’s reputation is important, such as a family doctor.