

An option available to people is Chapter 13 bankruptcy protection. Chapter 13 is a valuable tool for persons who may be behind on their home mortgage, delinquent on their vehicle payment or who owe back taxes or delinquent child support. Unlike Chapter 7 bankruptcy, Ch. 13 involves setting up a payment plan to pay the person's debts without liquidating their assets. Below is an overview of a Chapter 13 filing under the Bankruptcy Code, including information regarding what is required to get a case started, how a proposed plan to repay the appropriate debts involved is resolved and how a case is completed. A chapter 13 case can only be filed by an individual. A corporation, LLC or partnership is not eligible to file under chapter 13.

Filing for Chapter 13 Bankruptcy in Oklahoma

Filing for Chapter 13 bankruptcy protection under the Bankruptcy Code requires that a person file the following documents with the bankruptcy court clerk:

schedules of assets and liabilities;

a schedule of current income and expenses;

a schedule of executory contracts and unexpired leases; and

a statement of financial affairs.

In addition to the petition and supporting documents, the person must file:

a certificate of credit counseling;

evidence of payment from employers, if any, received 60 days before filing; and

a statement of monthly net income and any anticipated increase in income or expenses after filing.

The person must also provide the bankruptcy trustee with a copy of his/her most recently filed federal and state income tax returns or transcripts.

After filing these preliminary documents, the petitioner has 15 days within which to file a proposed plan for repayment, but the plan is usually included in the initial filing. When the case is filed, an "automatic stay" goes into effect, preventing additional collection efforts by creditors. The Court Clerk schedules a first creditor's meeting, which works much like the creditor's meeting in a Chapter 7 bankruptcy filing, at which the trustee asks the petitioner basic questions and invites any creditors present to do the same.

Oklahoma Chapter 13 Bankruptcy Confirmation Hearing

At the initial meeting with the trustee, creditors have the right to appear to voice any objections they may have to the proposed repayment plan. The plan must provide for regular payments to creditors as well as differentiate between the three different types of claims against the bankruptcy estate:

Priority Claims – These include tax debts, child support claims and a limited number of other possible claims.

Secured Claims – Secured claims are those secured by collateral, such as vehicle and home mortgage payments.

Unsecured Claims – Examples of unsecured debt include credit card balances, medical bills and general loans.

These inclusions are important, because the plan must provide for full payment of priority claims and payment for at least the value of the collateral as to secured claims. The standards are lower for unsecured claims, in that the petitioner must pay only such amount as he/she can afford as to this category.

Final Disposition of a Chapter 13 Bankruptcy

A chapter 13 plan must run for a term of 36 to 60 months, depending on the income level of the debtor. Once a person completes the payments required under the plan, the trustee will issue a notice that the plan is about to be completed. The trustee will then file his final report, after receipt of which the Court Clerk will issue a discharge of any debts which the debtor was not required to pay and close the case. This discharge has the same impact as a discharge issued under chapter 7 in that the person is relieved from having to make any future payments on the debts as they existed when the case was filed.