

Determine the Bankruptcy Code Chapter That Best Suits Your Needs

You have a choice in deciding which chapter of the Bankruptcy Code will best suit your needs. The decisions whether to file bankruptcy and under which chapter to file depend on your particular circumstances. In general, chapter 7 liquidation, or “straight bankruptcy,” is appropriate when you have insufficient income to pay all or most of your debts. If you have an income or property and can afford to pay all or a substantial portion of your debts, a chapter 11 reorganization, or the repayment of debt under chapter 12 or chapter 13 may be appropriate depending on whether the debtor is an individual, partnership, corporation, or family farmer.

These are just a few of the factors to consider, however. There is no way that a simple package like this one can address all the things to be considered. Also, considering your personal facts, comparing them to the requirements of each chapter and deciding which chapter to select would require legal advice. The Bankruptcy Clerk’s Office staff and non-attorney bankruptcy petition preparers⁸ are prohibited by law from giving legal advice.

Only a lawyer can give legal advice. Many lawyers charge a modest amount to help you and most give a free consultation during which they go over your circumstances and needs and tell you what you should do and how much it will cost. There are also several “do it yourself” books that set out the details of each chapter and attempt to explain the bankruptcy process.

The decision whether to file a bankruptcy and under what chapter is an extremely important decision and should be made only with competent legal advice from an experienced bankruptcy attorney after a review of all the relevant facts of your case.

⁸ Section 110(a) of the Bankruptcy Code (11 U.S.C. §110(a)) defines “bankruptcy petition preparer” as a person, other than an attorney or an employee of an attorney, who prepares for compensation a petition or other document for filing by a debtor in a U.S. bankruptcy court or a U.S. district court in connection with a bankruptcy case. See SECTION III, *Instructions For Completing Bankruptcy Forms*, item 11.