



The Indianapolis Bankruptcy Book



**The Beginner's Guide to
Bankruptcy in Central Indiana**

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First eBook edition November 2020

ISBN 978-0-692-88222-1 (eBook)

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INTRODUCTION: Bankruptcy in Indianapolis

The Indianapolis Bankruptcy Book overviews how bankruptcy works in the greater Indianapolis area. This guide is designed to explain the basics. It will help you understand the process better. It will also help you understand what is happening as your bankruptcy attorney guides you through your case.

This guide could also be used to educate a pro se filer who is filing their case solo without an attorney in the Indianapolis area. However, because of the complexity of bankruptcy, we always strongly recommend that you hire a bankruptcy attorney to guide you through the process. Bankruptcy is complex. This is a short guide that cannot go into the vast detail necessary for a pro se Indianapolis filing. In addition, all information herein is general and educational in nature. It is not specifically tailored for any situation, and, therefore, should never be taken as legal advice.

Let's get straight into the book. Bankruptcy can be a life-changing event. Its powerful release of debts can forever change someone's life, especially if the person is committed to making future financial changes. If you are considering bankruptcy, we strongly also encourage you to seek financial education. Making some simple changes to your financial life can make a world of difference. It will get you the true fresh start that you long for instead of just the forgiveness of your current load of debt.

**PART ONE:
BEFORE YOU FILE YOUR
BANKRUPTCY CASE**

BANKRUPTCY PLANNING AND PREPARING YOUR PETITION

Before a bankruptcy case is filed, you always partake in bankruptcy planning. Bankruptcy planning takes into account how Indiana and Federal laws will apply to your situation. It also includes considering whether you will end up losing any assets or property during your case. Proper planning can also help you keep the assets that you own. Most people get to keep everything that they own when they file for bankruptcy because proper planning was put into place. Bankruptcy planning also considers whether Chapter 7 or Chapter 13 is appropriate for your situation.

Before you file your bankruptcy case, you must also prepare your bankruptcy petition, schedules, and documents to present to the court. The petition will provide a complete picture of your assets, debts, income, and expenses. It will also answer a series of basic financial questions.

Bankruptcy planning and proper presentation of the petition – these are parts where having a bankruptcy attorney is critical. Only a bankruptcy attorney fully understands all the aspects that must come into bankruptcy planning. Bankruptcy attorneys also submit petitions to the court on a regular basis. Although you can prepare a bankruptcy on your own without an attorney, the likelihood that something can be missed is very great. Missing something in a bankruptcy case can cost you large amounts of time and money. Your case may also get dismissed if you cannot figure out how to present your bankruptcy petition and documents to the court in the proper fashion.

This Indianapolis Bankruptcy Guide will cover some of the basics to bankruptcy planning, selecting Chapter 7 or Chapter 13, and exemptions. It will also explain the difference between secured and unsecured debt. A brief introduction to filling out the bankruptcy petition will also help explain what is required to be presented to the bankruptcy court.

CHAPTER 1: Bankruptcy Planning

If you are considering filing bankruptcy in Indianapolis, you first need to make a bankruptcy plan. Making a bankruptcy plan is essential for protecting assets and providing predictability in your case. Bankruptcy planning is essential for having your bankruptcy case go smoothly.

Chapter 7 vs. Chapter 13 Bankruptcy

For most people filing, bankruptcy relief comes in two forms. You will have to pick whether Chapter 7 or Chapter 13 is right for you.

Filing Chapter 7 in Indianapolis

The first form of bankruptcy is Chapter 7, full debt forgiveness. This Chapter 7 gives you a total “release” or full elimination of all your debts. You can usually still keep your house and cars if they do not have too much value or equity (read the “Indiana Exemptions” section on this later).

In Chapter 7, some debts will not be instantly eliminated such as student loans, recent tax debts, and child support. However, almost all other debts are fully forgiven like credit cards, repossessions, foreclosures, medical debts, or other loans. The Chapter 7 case usually last a short period of time such as 3-5 months. Then, you will receive the full discharge (permanent release) of all your debts.

Filing Chapter 13 in Indianapolis

Chapter 13 bankruptcy has a different focus. In Chapter 13, you participate in a 3-5-year repayment plan that reorganizes all of your debts. In Chapter 13, you make a single payment each month that will take care of either all or most of your debts. You will pay the Chapter 13 Trustee this single payment. From there, the trustee will distribute the funds to all of your creditors according to the terms of your Chapter 13 plan. The Chapter 13 Trustee will review, monitor, finalize, and do all accounting for your case.

Chapter 13 has special features that can offer advantages to some bankruptcy filers. These advantages include permanently stopping repossessions, foreclosure suits, and sheriff sales. In such cases, you can start paying your house payment or car through your Chapter 13 plan. Other times, Chapter 13 can reduce your overall payments. Chapter 13 is also unique because you can file it when you cannot file a Chapter 7 due to having too many assets or too much income. You can also file Chapter 13 when you cannot currently file a Chapter 7 because 8 years has not passed since your last Chapter 7 case. This makes Chapter 13 a powerful option for many people.

Indiana “Exemptions:” What You Can Keep in Bankruptcy

Personal or “Tangible” Property Exemption in Indianapolis Bankruptcy

Indiana, like all other states, has “exemptions” that protect your property. This protects you from losing all

your property in an auction when you file for bankruptcy. When filing bankruptcy in Indianapolis (or all of Indiana), you can keep \$10,250 of personal property per person. You must fit all your belongings and your vehicles into this amount. If you are married and both of you are filing, you can keep \$20,500 in personal property.

Residence Exemption in Indianapolis Bankruptcy

In Indianapolis, you can keep \$19,300 of equity in your residence. If you are married and both spouses are on the house, you can keep \$38,600 in equity. You can sometimes go over these amounts in equity, but not by very much. If you have a substantial amount of equity in your house such as \$50,000-\$100,000 or more, you will likely be forced to file Chapter 13 instead to pay back some of your creditors to protect the house. This does not happen in practice very much, however. Usually, most people who have a house can still file Chapter 7. Remember that your comparative market evaluation which determines your home's value will be based on a current, as-is condition. Many people who need bankruptcy relief have not been able to keep up on all maintenance issues on a house, which can sometimes help drop the value.

Cash or “Intangible” Exemption in Indianapolis Bankruptcy

This is where it gets difficult with Indiana exemptions. The amount is only \$400 (or \$800 for a couple) in cash protection. However, this “cash” or “intangible” concept goes to several other areas beyond cash as well. Bank account overages or moneys owed to you will be taken by the Chapter 7 Bankruptcy Trustee to help pay back some creditors if they exceed \$400. The bankruptcy trustee

may also take a portion of your upcoming tax refund due to this small \$400 “cash” exemption.

However, it does not stop there. If you have lawsuits, claims, upcoming inheritances, or any other windfall of money, you will lose these amounts also. They will be pulled into the bankruptcy case to pay back creditors. You simply cannot have any form of money coming to you (except for few exceptions such as worker’s compensation claims) when you file for Chapter 7 or Chapter 13 bankruptcy. If you do, you can still file. However, the bankruptcy trustee will take over these funds to pay back creditors.

Assets and Income – Chapter 7 or Chapter 13?

Assets and income are very important factors in bankruptcy planning. If you have too many assets or too much income, you will be forced to file Chapter 13 instead of Chapter 7.

Assets are determined by the bankruptcy exemptions as described above. If you exceed any of these exemption amounts by a large amount, you will have an “asset” in your Chapter 7 bankruptcy case. That asset will be taken or addressed in some way by your Trustee to pay back creditors.

Therefore, if you have too much personal property or too much equity in your house, you may instead want to file Chapter 13. This will help you protect your house and cars and still get some bankruptcy relief. You will be forced to pay back the difference above the exemption in your Chapter 13 case. However, all of your assets will be protected.

Too much income can also push you into Chapter 13 in an Indianapolis bankruptcy case. If you make more than about \$50,000 or greater per year (in a single-family household), it is possible you may be pushed into Chapter 13 to pay back some of your creditors. If you have a larger household size, this number increases. For instance, a 5-person household must not exceed approximately \$95,000. This amount goes up and down for the total household size.

You also can exceed these amounts and still file Chapter 7 if you can “Pass the Means Test.” A test full of deductions and subtractions can still allow you to file Chapter 7. This test must prove that you have no money left over at the end of the month to allow you to still file Chapter 7. This test is rigid and only allows certain deductions.

Prior Bankruptcy Cases

You must also look at prior bankruptcy cases during bankruptcy planning. First, you must check if you have filed Chapter 7 in the last 8 years. You can only file Chapter 7 every 8 years in Indianapolis. If you file before 8 years has passed, you must instead file a Chapter 13 case.

Chapter 13 cases can always be filed in some manner in Indianapolis (unless another current bankruptcy case is still open). This can be a huge advantage because it always allows some form of bankruptcy to be available. If you have filed a Chapter 7 in the last 4 years, then you will not be able to get a final discharge on the Chapter 13 case. The case will still work the same in these rare situations, but you would not get the final debt elimination at the end of the 3-5-year plan.

Final Parts to Bankruptcy Planning

Bankruptcy planning requires considering income, assets, and any prior bankruptcy to determine the timing of your upcoming bankruptcy filing. You also have to decide whether you will file Chapter 7 or Chapter 13. You may wait to file a certain Chapter of bankruptcy at a specific time.

If you know that you have upcoming assets, you may choose to wait until you have received and properly spent the money from this asset before you file your case. This may only be feasible if the amount is small enough and you can spend the item on normal and necessary expenses. For instance, you can wait until you have received and spent your tax refund before you file your bankruptcy case. In addition, you may want to spend down all money in your bank accounts on normal expenses before your case is filed. Smaller items like these are more feasible to spend down before you file.

Sometimes larger items such as upcoming inheritances or lawsuits may require a larger deal of planning. Large assets or fund amounts will require a larger deal of bankruptcy planning or consideration. Bankruptcy planning is very complex and should only be attempted through the counsel of an attorney.

Another concept to clearly establish is that there is a clear difference between bankruptcy planning and bankruptcy fraud. Bankruptcy planning may include spending down moneys owed to you or selling assets in proper ways where you spend this money only on normal and necessary expenses. Bankruptcy fraud is where you hide or transfer assets, give assets to relatives, do not disclose property, buy luxury or unnecessary items, or do any

other action that is obviously deceptive or otherwise thwarting the proper bankruptcy process. An entire team at the United States Trustee's Office in Indianapolis monitors bankruptcy fraud. Your bankruptcy case Trustee will also have the responsibility to look out for bankruptcy fraud. Make sure to always tell the truth and disclose everything you own or you are entitled on your bankruptcy petition.

Remember, this book only covers limited aspects of bankruptcy planning. Always consult with an attorney to make your bankruptcy plan. You will save money likely and life will be much easier during your case!

CHAPTER 2: Preparing Your Petition

Now that you have made your bankruptcy plan, you must prepare your bankruptcy petition. You must also prepare the other items that your case requires. You need to get the certificate showing you took the one-hour online class. You must also get together some documents that will be required for finishing your case.

The Bankruptcy Petition: Your Request for Bankruptcy Relief

Bankruptcy in Indianapolis could be simple. You could just fill out a single-page document officially asking (petitioning) for bankruptcy relief with your name and address. The Indianapolis Bankruptcy Court could then just grant the relief and send out an order eliminating your debts.

A bankruptcy petition is simple. The petition itself simply asks for either Chapter 7 or Chapter 13 Bankruptcy relief upon submitting it to the Federal Building in downtown Indianapolis. However, much more than just this simple request is required to be filed to start your case. Your (1) Petition must also include (2) Schedules that document all of your property, debts, income, and expenses. You must also submit a (3) Statement of Financial Affairs that answers about 27 basic financial questions. In addition, you must also include a separate (4) Statement of Intention for secured debts, (5) a Current Monthly Income statement that covers 6 months of income, a (6) Mailing list for your creditors, and a (7) Statement of Social Security Number. You will also submit separate signature pages that attest to the truthfulness of these 7 documents.

Therefore, a complete Indianapolis bankruptcy petition contains the following sections:

1. The Petition (with your name, address, and the Chapter you are filing under)
2. Schedules A/B through J (Listing your assets, debts, income, and expenses)
 - Schedule A/B.....Property
 - Schedule C.....Exemptions
 - Schedule D.....Secured Debts
 - Schedule E/F.....Unsecured Debts
 - Schedule G.....Leases and Contracts
 - Schedule H.....Co-Debtors
 - Schedule I.....Income
 - Schedule J.....Expenses(There is also a Summary of Schedules)
3. The Statement of Financial Affairs (Several Financial Questions)
 - * One question asks your last 3 years of income
4. Statement of Intention (for the Collateral of Secured Debts)
 - * Houses or Cars- Your intention to Keep or Surrender
5. Statement of Current Monthly Income
 - * You list out your last 6 whole months of income
6. Mailing List of Your Creditors
 - * The Indianapolis Court House mails out notice
7. Statement of Social Security Income (list your SS numbers)

Filling Out Your Petition, Schedules, and other Forms

Your petition, schedules, and other forms must be filled out completely and accurately. All questions must be carefully read and understood before filling out each section. Most central Indiana bankruptcy attorneys know the preferred format for filling out the forms for the Indianapolis Bankruptcy Court. If you have a bankruptcy attorney, you simply need to read and review your schedules to especially make sure your assets, debts, income, and expenses are accurate. However, if you do not have an attorney, you will need to take special care to include all information for every section of the bankruptcy filing. This requires reading and understanding each section that you file with the court.

The Forms Required in Indianapolis for filing bankruptcy are found here:

<https://www.insb.uscourts.gov/forms>

If you are representing yourself in Indianapolis, read the Pro-Se Debtor Packet:

<https://www.insb.uscourts.gov/sites/insb/files/ProSeDebtorPkt.pdf>

It may be wise to use a bankruptcy attorney at this point. Preparing your bankruptcy forms accurately takes a great deal of time and research for someone new to the process. If you pay a petition preparer or online service to complete your bankruptcy, you will still be doing the bankruptcy on your own. You will then be paying someone else for you to do the bankruptcy yourself! Using an attorney is a wiser use of money. We strongly

recommend it for all cases. It can protect you from losing a great deal of money unintentionally during your bankruptcy case. It also makes filing your bankruptcy forms very easy.

Secured versus Unsecured Debt

One commonly misunderstood section of the bankruptcy petition requires understanding the difference between secured and unsecured debt. A secured debt is a debt that has collateral that can be taken back such as a mortgage or car loan. An unsecured debt has nothing that can be taken back as collateral such as medical debts or credit cards. Almost all debts are unsecured debts. Only car loans, mortgages, and some rare small item loans such for household goods are ever secured debts.

Most of the debts you list in your Indianapolis bankruptcy go in the Schedule E/F Unsecured Debts section on your petition. You will put all of your main debts in there. If you have any secured debts such as a house or car loan, you will place these in the Schedule D Secured Debts section.

Taking the 1st Class

The Indianapolis Bankruptcy Court requires that you take a 1-hour online class before your case can be filed. This class certificate is good for 6 months. The Indianapolis Southern District has a list of bankruptcy class providers. The requirements and a list of class providers can be accessed here:

<https://www.insb.uscourts.gov/credit-counseling-requirement>

We have frequently sent people to the provider Summit Financial for the course requirements:

<https://www.summitfe.org>

The Pay Advices Requirement for an Indianapolis Bankruptcy

You are required to file your last 60 days of “Pay Advices” in every Indianapolis Bankruptcy case. The “Pay Advices or Statement in Lieu” simply means that you must include the most recent 60 days of your paycheck stubs. You must file a set of these for everyone filing (both spouses) on a joint case even if one spouse is unemployed.

In Indiana’s Southern District for Bankruptcy (which includes the whole greater Indianapolis area), all income from the last 60 days must be provided. If you are/were unemployed, you must include a written and signed statement stating the dates you were unemployed. If you receive different types of income such as a pension, social security, or unemployment, you must provide a statement that documents the last 60 days of income you received. These 60 days of pay information must be prepared for both spouses on a joint case.

Credit Counseling Certificate

You will also receive a certificate of completion for the first class. You must file this certificate of completion separately with the court when you file your case. To prove that you have taken the first class with an approved provider, all filers must submit this certificate immediately upon filing their case.

**PART TWO: FILING AND COMPLETING
YOUR BANKRUPTCY CASE**

CHAPTER 3: Filing Your Case in Indianapolis

Once you have made your bankruptcy plan and prepared petition, you must file your case. You file your case by presenting your petition and all other required items to the Indiana Southern District Bankruptcy Court to file your bankruptcy case. This Indiana Southern Bankruptcy Court is in the Federal Building in downtown Indianapolis.

Where do you Submit your Bankruptcy Petition in the Indianapolis Area?

In Indianapolis, you will be required to present your bankruptcy petition and schedules to the Birch Bayh Federal Building at 46 E. Ohio Street, Indianapolis, IN 46204. You can access the Indianapolis Bankruptcy Clerk's Office through the phone or their primary website:

317-228-3900 – Indianapolis Bankruptcy

<https://www.insb.uscourts.gov/>

You Will Be Assigned a “Trustee”

A bankruptcy trustee will be assigned to your case. This trustee is a local lawyer or accountant that will review and administer your bankruptcy case. You will be required to attend a bankruptcy meeting with the trustee where he or she will review all your documents, your petition, and will ask you several in-person questions. Generally, this meeting with the trustee will occur on the

4th floor of the Birch Bayh Federal building in room 416. All Indianapolis Trustee meetings generally occur in this setting. However, you may be able to attend the meeting telephonically in certain cases, depending on the circumstances.

Getting Your Documents to the Trustee

You must submit additional required documents directly to your Chapter 7 or Chapter 13 trustee in Indianapolis generally two weeks before your bankruptcy meeting. You will receive a bankruptcy notice (341 Meeting Notice) that tells you the date and time of your bankruptcy meeting. The Trustee that gets assigned to your case will also have all of their contact information on the bankruptcy notice. You must deliver the required documents to your Indianapolis bankruptcy trustee two weeks BEFORE your bankruptcy meeting.

For Chapter 7, you generally must submit the following to your Indianapolis Bankruptcy Trustee:

Your Most Recent Tax Return (Federal 1040, State IT-40, and W2's)

Your Most Recent 90 Days of Bank Statements (for all accounts)

If you have a house, you must also submit:

A Comparative Market Analysis
(This shows the value of your house,
It can be obtained for free from a realtor)

A Copy of the Mortgage, Note, and Deed to your House

(This can be obtained from your Closing folder for your house.

It can also be obtained from the Recorder's Office in your County)

You must also provide additional documents in some Chapter 7 cases. See the complete list of required documents for Indianapolis Bankruptcy Trustee cases here:

<https://www.insb.uscourts.gov/sites/insb/files/UPL7.pdf>

For Chapter 13, you are usually only required to send in your most recent year's taxes to the trustee. The trustee will also ask for a Comparative Market Analysis on most cases where the debtors own a house.

Taking the Second Class

You must also take the second class AFTER the bankruptcy case is filed. This class usually takes about two hours and can be conducted online. It is usually a little less expensive than the first class. It can cost less than \$10. For information on the Indianapolis 2nd Course requirement, see the following page:

<https://www.insb.uscourts.gov/financial-management-course-requirement>

You can use Summit Financial to take this class at:

<https://www.summitfe.org>

Attending the Bankruptcy Meeting

You will be required to attend a single, in-person bankruptcy meeting in the Federal Building (Courthouse) in downtown Indianapolis for your bankruptcy case. In certain situations, this in-person meeting can be waived instead for a phone or Zoom meeting. For example, phone meetings have been allowed during and after the Covid-19 outbreak.

All bankruptcy filers are required to submit their Driver's License and Social Security Cards for your bankruptcy meeting. In Indianapolis, you may be able to prove your social security number by alternative means such as presenting an original W2. Indianapolis also requires you to submit your two most recent paycheck stubs, the two closest to the bankruptcy meeting. You will also be required to submit bank statement updates if you did not already provide the 90 days of bank statements that cover up to the bankruptcy filing date.

CHAPTER 4: Follow-up After your Bankruptcy Filing

An entire book could be written on follow-up after a bankruptcy filing. This section covers a few important aspects of follow up during or after a bankruptcy case. It also covers a few other important considerations not covered earlier in the book. It is important to defer to an attorney if at all possible, to help you finish your bankruptcy. The goal is to complete your bankruptcy smoothly and be set up for a good fresh start afterwards.

Following up With Any Requests from the Trustee

You generally must follow ALL request of the bankruptcy trustee after your bankruptcy meeting. If there are rightful assets that belong to the bankruptcy estate, you must turn them over to the trustee. This is where you could lose your tax refund or other assets if it was not fully covered by your exemptions. If you have any assets that belong to the bankruptcy estate, the trustee will do an accounting of the money that comes from these assets. Each of your creditors will eventually be repaid a lower, correct percentage of their claim. Your creditor will usually only get paid a small portion back. This collection of assets and accounting is what is called a “bankruptcy estate.” Its purpose is to provide some percentage of repayment to your creditors.

Most bankruptcy cases in Chapter 7 have no assets or minimal assets declared. This is because you generally do not file Chapter 7 if you are going to have a lot of property lost in the case. Remember, most people can

keep their house, cars, and belongings because these items fit frequently in Indiana's bankruptcy exemptions.

In Chapter 13, you must make all payments on time each month for your Chapter 13 plan. Then, you will receive a discharge of your debts at the completion of your plan. However, if you receive an increase of income or a new large asset, you will be required to report this to the Chapter 13 trustee. The trustee may require moneys to be turned over as an additional payment on the case. Or, if your income increases enough, the monthly payment may also increase in some cases.

If you do not comply with the document or asset request of the trustee, you can have your bankruptcy terminated. The trustee can either dismiss your case or revoke your discharge in Chapter 7 sometime in the future.

In Chapter 7, there is usually little or no follow-up required after the bankruptcy meeting. The trustee many times determines that there are not any assets that they claim as property of your bankruptcy case (tax refund, excess bank account funds, etc.). In such cases, you will get an "Order in No Asset Case," or "Report of No Distribution" in the mail. These notices are good. You also receive a "Discharge of Debtor" notice via mail. That's good also: it is the order that eliminates your debts.

Reaffirmation Agreements in Chapter 7

What are Reaffirmation Agreements? They are a new binding promise that you will pay back a secured debt such as a loan for a house or a car. These Reaffirmation Agreements can generally only be filed DURING the

Chapter 7 Bankruptcy process in Indianapolis's bankruptcy district. (Secured debts are debts where there is collateral such as a house in a mortgage or a car in an automobile loan. Sometimes creditors have other collateral for their loan such as tools, a tractor, or ATV as examples).

Remember, your bankruptcy eliminates your personal liability for your debts. You become personally liable again to pay a secured debt back in full if you sign a reaffirmation agreement (and then the reaffirmation agreement is filed.) If you sign the agreement, your creditor could come after you to collect on the loan if the loan is later repossessed or foreclosed.

Therefore, because you become personally liable to pay the entire debt back when you sign reaffirmation agreement, you may not want to sign a reaffirmation agreement if you have a very high balance on your loan or if the loan is in a negative equity situation (the value of the collateral is worth less than the loan balance). However, if you do not sign the reaffirmation, your creditor will not report your payments to the credit bureau to build your credit even if you keep the item and continue to make payments. This non-reporting of credit can make it more difficult to refinance items in the future. In extremely rare cases, the creditor may demand return of the collateral if you do not execute a reaffirmation agreement (this is very rare in practice, however).

You sometimes can still keep your secured item (such as your house, car, etc.) even if you do not sign and return a reaffirmation agreement as long as you keep the regular payments for the item up to date. However, if you do not sign the reaffirmation, your creditor will not report your payments to the credit bureau to build your credit even if

you keep the item and continue to make payments. It is relatively common for a debtor in bankruptcy to never have a reaffirmation agreement filed for their secured item they want to keep. This is usually either because the creditor does not generate the reaffirmation agreement or because the debtor does not wish to be locked personally forever in paying the full amount of the debt back.

If you want to keep a secured item such as a house or car, the most important thing to do is keep making timely payments. Sometimes your secured creditors will NOT send you notices or statements about your debt during the bankruptcy process whether you are planning to sign a reaffirmation agreement or not. Other times they will cancel your online payment options. You still must mail them the normal payments to ensure that you stay up to date on any item that you are keeping in the bankruptcy.

Reaffirmation agreement decisions should be handled with care and the advice of a bankruptcy attorney. Although you are generally always allowed to do so, it may be unwise to lock yourself back into a bad loan situation. Even if you want your credit to be clearly reported, a bad loan can be burdensome to reaffirm.

Own Real Estate? Judicial Liens Do Not Go Away in Indiana

If you own real estate, judicial liens can happen when a judgment occurs in a lawsuit against you. These liens are almost like "mini-mortgages" that can attach to your house. If you have judicial liens, they do not automatically go away by your bankruptcy with the rest of your debts in Indiana. This can create either a slow-down on selling your house in the future or cost you money at closing.

In Indianapolis Bankruptcy Court, you must provide your attorney with judgment information and pay their office to attempt a Motion to Avoid Judicial Lien. You must do this if you want to attempt a lien removal motion in an Indianapolis case. You should also make sure that the lien avoidance attempt was fully completed during your bankruptcy case, checking up on the action and delivering the avoidance orders to any necessary party. Some liens also cannot be avoided. This is a complex issue that can only be handled by an Indianapolis bankruptcy attorney.

Student loans, Non-Dischargeable Debts, and Adversary Lawsuits

Student loans and overpayment of government benefits (such as unemployment and social security) are generally non-dischargeable in bankruptcy. This means that you will retain these debts usually even after your bankruptcy discharge. In addition, a few other categories of debts can also not be discharged such as certain taxes, civil and criminal fines, and child support (as some examples).

An adversary suit can be filed in your bankruptcy case to determine whether a particular debt is dischargeable in bankruptcy. These suits can either be filed by a debtor's attorney or by a creditor in order to determine whether a particular debt will be dischargeable. These adversary suits very rarely occur in a bankruptcy case. They are an additional matter that is not generally covered in your Indianapolis bankruptcy representation. An attorney's office can represent you in these suits (if they are necessary or are initiated in your case) for an additional cost. Sometimes attorneys incorporate this representation as a special part of their law practice. Attorneys that

have high experience in adversary suits are always the best option if possible.

Student loans can be discharged in bankruptcy in rare, extreme hardship situations by filing an adversary case to discharge the debt. These cases are usually not successful. However, if you have a very extreme hardship situation, you may be able to sue your student loan company for a discharge. This is extremely rare and most cases are denied.

In addition, either defense in an adversary case or the prosecution of an adversary case may be helpful for the cause of discharging overpayment of government benefits or within other situations where the questionability of discharge is a factor. An experienced adversary bankruptcy attorney is the way to go generally when handling these very rare matters.

Discharging Income Tax Debt in Bankruptcy

In rare cases, a portion of your income tax debt (or other tax debt) will be discharged in your bankruptcy case. Income taxes that were actually filed on time and are now more than 3 years in the past from their filing due date MIGHT be dischargeable in your Indianapolis bankruptcy case. It is your responsibility to ensure that your taxes were filed correctly and on time. It is also your responsibility to deal with your remaining tax debt situation after the bankruptcy case. You may need to hire an accountant or tax attorney for this purpose. Check with the IRS and Indiana Department of Revenue 30 days AFTER your discharge for an accounting.

Following the Plan and Getting it Confirmed in Chapter 13

Chapter 13 is a complex process that should only be conducted through an attorney. Many times, a Chapter 13 attorney will charge no money down in Indianapolis (only the court cost) to get your case filed. In more complex cases, some amount of “money down” will be required ranging usually from \$500 to \$4000.

Chapter 13 requires a plan to be eventually “confirmed” in the bankruptcy case. Your plan simply states which items will be paid through the bankruptcy. It also states the terms in which they will be paid. Most items are automatically required to be “treated” a certain way in the plan in Indianapolis. Other items can have some flexibility as to how they are treated in the plan.

Your plan will be confirmed sometime within 3 to 9 months in most bankruptcy cases. During this time, a series of Amended Plans may need to be filed in Indianapolis’s Bankruptcy Court. In addition, documents or supporting information may need to be delivered to the trustee or taxing authorities to get your case confirmed.

In rare, complex cases, confirmation of the plan can take up to 1-2 years or greater. However, this does not matter at all in most cases. The only important thing to do is make your monthly payments on time. The plan confirmation is only a final stamp of approval of the plan. The timing of the confirmation does not generally affect the case in any way.

In Chapter 13 cases, you will usually receive your discharge at the end of the case when all payments have

been made. If there is a problem making payments during the case, the trustee will file a dismissal action. You can usually make a modification to the Chapter 13 plan in Indianapolis even in face of dismissal. You may, however, be required to make higher payments in a modification to catch up on your case being behind.

Chapter 13 is a powerful tool that can be used in numerous ways to restructure your finances. However, once again, because of the complexity of Chapter 13 and the ability to defer fees, you should always have an attorney help you with your Indianapolis case.

Final Words on Bankruptcy in Indianapolis

Bankruptcy is a powerful tool that can reshape your financial life very quickly. This book has covered many topics unique to the bankruptcy process in Indianapolis. The book is not designed to cover all issues. That is why it is important to seek bankruptcy professionals to help you through the process.

The Indianapolis Bankruptcy Court has been intentionally designed to make bankruptcy accessible and as easy as possible. Our local court wants to grant you the debt relief that you need. The court and trustees do not set up unnecessary hurdles or make the process difficult. If you need debt relief, then hopefully this book has helped you understand the process. It is designed to help you understand Indianapolis bankruptcy. I hope I assisted you in collecting the knowledge you need to get debt free!

- John Forest Bymaster, J.D.

ABOUT THE AUTHOR



John Bymaster is an Indianapolis-area bankruptcy attorney that has helped thousands of Hoosiers get out of debt in the last 15 years. He has written other books on bankruptcy, including books that address the morality behind bankruptcy. He serves the

community by continually offering resources on bankruptcy and other debt relief options. He has appeared multiple times on the news and local Indianapolis stations discussing bankruptcy topics and other legal topics.