



Means Test

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Who files for bankruptcy and why?

- It is commonly thought that people who file for bankruptcy are reckless spenders and poor budgeters, but recent data shows this is not necessarily the case. Other causes are divorce or separation, student debt, natural disaster damage, job loss and other unexpected expenses.



Introduction: Are You Eligible for Chapter 7 Bankruptcy? Despite what you may have heard about changes in bankruptcy law, most people who need bankruptcy protection are still eligible.

Are you?

This calculator will help you find out.

It applies the formulas, regional income and expense standards, and calculations of the new "means test" that was a cornerstone of BAPCPA, the 2005 bankruptcy law (11 U.S.C. 707(b)). It uses the language and formatting of the new, 2014 version of [Official Form B122A-1](#), [Official Form B122A-1Supp](#), and [Official Form B122A-2](#), just a few of several forms you will need to complete if you decide to file for bankruptcy.

Read the instructions carefully ([for official instructions for PDF forms, click here](#)). If you are unsure whether an item applies to your situation, make a note of your question. Ask a bankruptcy lawyer about it if you go for a free consultation.

California "Median Income" Test

If your monthly household income is less than the California median income for a household of your size, you are presumed to be eligible to file for Chapter 7 bankruptcy under Section 707(b)(2).



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—The sale of all nonexempt assets of a debtor and distribution of the proceeds to the debtor's creditors, pursuant

to Chapter 7 of the Bankruptcy Code.

- Chapter 11 — Reorganization

- Chapter 12 — Voluntary repayment plan for family farmers or fishermen

- Chapter 13 — Voluntary repayment plan for individuals with regular Income---

- **Voluntary Bankruptcy:** A debtor who finds himself **unable to pay debts as they become due** may voluntarily petition.

- **DEFINITION** of '**Means Test**' A method for determining whether someone qualifies for a financial-assistance program. A common **means test** is the one used to determine eligibility for Chapter 7 **bankruptcy**.



Requirements for Individuals Filing a Chapter 7 Bankruptcy Case

- To file a chapter 7 bankruptcy case in the Central District of California, individual debtors:
- 1) **MUST BEFORE** complete an approved credit counseling course within 180 days
- **FILING** the bankruptcy case. Upon completion of the credit counseling course, a
- certificate of completion will be issued. A copy of the certificate of completion must
- be filed with the court up to 14 days after the bankruptcy petition filing (with limited
- exceptions).
- For a list of approved credit counseling agencies, visit the U.S. Department of
- Justice's website at http://www.justice.gov/ust/eo/bapcpa/ccde/cc_approved.htm.
- 2) **MUST** pay the chapter 7 filing fee. Consult the [Court Manual](#) for fee amounts and
- payment methods.
- 3) **MUST** file the following documents, if applicable, at the bankruptcy court in the
- following order.
- **At a minimum, documents in this box (A, B,**
- **At a minimum, documents in this box (A, B, C, and D) MUST BE FILED,**
- **when applicable, or the bankruptcy filing will not be accepted.**
- A. Statement About Your Social-Security Numbers (Official Form 121)
- If filing electronically, see [Court Manual](#) section 3.6(b). **If filing**
- **electronically, this document must be filed separately from the**
- **other documents in this package.**
- B. Voluntary Petition for Individuals Filing for Bankruptcy
- (Official Form 101) – this completed form must be signed by the
- debtor(s) after the debtor(s) has read the Notice Required by
- 11 U.S.C. § 342(b) for Individuals Filing Bankruptcy (Form 2010)
- (see page 9 of this Petition Package).
- C. Master Mailing List of Creditors - this is not a form, it is a list of
- creditors' names and addresses. Please see the *Requirements for*
- *Master Mailing List of Creditors* on page 11.
- D. Electronic Filing Declaration (Individual) [LBR 1002-1(f)] (LBR form
- F 1002-1.DEC.ELEC.FILING.INDIVIDUAL) - this form is required
- only for electronically filed bankruptcy cases. **If filing**
- **electronically, this document must be filed separately from the**
- **other documents in this package.**


Main Differences

Chapter 7 Bankruptcy

- For Individuals and Businesses
- Eliminates all unsecured debt
- Best for those with few assets
- Best for those with barely enough income to get by
- Must pass means test to qualify

Chapter 13 Bankruptcy

- For Individuals and Businesses
- Adjusts debt for repayment
- Best for those that want to keep their assets (home, vehicle, etc)
- Best for those who can pay living expenses but not their debts



Financial Freedom
NEXT EXIT ➔

Eliminate:

- Credit Card Debt
- Medical Bills
- Utility Bills
- Lawsuits

Stop:

- Wage Garnishment
- Home Foreclosure
- Car Repossession
- License Suspensions
- Bank Levies
- Real Estate Liens



California Bankruptcy Means Test

STATE	1 EARNER	FAMILY SIZE		
		2 PEOPLE	3 PEOPLE	4 PEOPLE ★
ALABAMA	\$38,018	\$46,143	\$51,613	\$62,983
ALASKA	\$51,112	\$74,242	\$80,133	\$84,577
ARIZONA	\$41,915	\$54,510	\$58,696	\$66,030
ARKANSAS	\$32,304	\$43,370	\$48,799	\$53,523
CALIFORNIA	\$47,234	\$61,954	\$67,562	\$77,596
COLORADO	\$47,814	\$63,635	\$69,717	\$82,621
CONNECTICUT	\$56,929	\$70,800	\$82,305	\$101,647
DELAWARE	\$47,634	\$61,424	\$67,412	\$83,928
DISTRICT OF COLUMBIA	\$48,034	\$78,878	\$78,878	\$78,878
FLORIDA	\$39,383	\$49,321	\$53,713	\$64,084

- Discussion
- Determine whether or not you feel the new Means test is fair or not to debtors. Would you construct it differently? What are the pros and cons from your viewpoint? Is it good or bad, fair or unfair, why or why not?



Pro's for filing Bankruptcy



- • **No more debt**
- Debt is eliminated! Peace of mind is an obvious benefit that comes with debt elimination. If over spending led you to bankruptcy then filing gives you a chance to go to counseling and plan more carefully.
- • **Stops bill collector calls**
- Once you file for bankruptcy, it becomes illegal for bill collectors to solicit payments from you. The stress caused by talking to or avoiding bill collectors ends as soon as you file for bankruptcy.
- • **Start rebuilding credit**

- A successful filing can give you the feeling of having a clean slate to start rebuilding your credit.. Bankruptcy gives you a chance to start over by allowing you to rebuild credit.
- • **Gets rid of credit cards**
- If you are prone to over spending, eliminating credit cards gives you some relief and also gives you the chance to start developing healthier spending habits.
- • **Avoid prolonging filing**
- If bankruptcy is inevitable, you should not prolong filing. Using social security, retirement funds or any other protected assets unnecessarily drains finances to pay debts that would otherwise be wiped out with bankruptcy. A big issue for people who file for bankruptcy is they try to avoid it at all costs, therefore draining valuable resources.(ex. social security, retirement funds, life savings.)



Cons of filing for bankruptcy



- • **Credit diminishes**
- Part of rebuilding credit after bankruptcy means having a clean slate. Your credit will drop to zero. Current credit cards disappear, and applying to any major loan & mortgage will be difficult for 10 years due to increased interest rates.
- • **New lending problems**
- Unfortunately some credit lenders deliberately target recent filers and offer credit cards or loans w/high interest rates. When rebuilding credit you can apply for credit cards to start the process of rebuilding. After a few years you can begin to apply for loans again.
- • **Public record of your filing**
- Filing for bankruptcy is matter of public record, meaning that anyone can request your filings.

Filing and attorney cost

- Filing for bankruptcy is not free. A standard fee for filing is \$335 for Chapter 7 and \$310 for Chapter 13. This does not include attorney fees nor the required credit counseling!
- • **Mental and physical health problems**
- Many people who file for bankruptcy admit it takes a toll on their mental and physical health. Many people experience feelings of inadequacy or failure even in cases of unavoidable events. According to studies by North Western University, financial debt is associated with high stress, depression, worse self-reported general health and blood pressure.



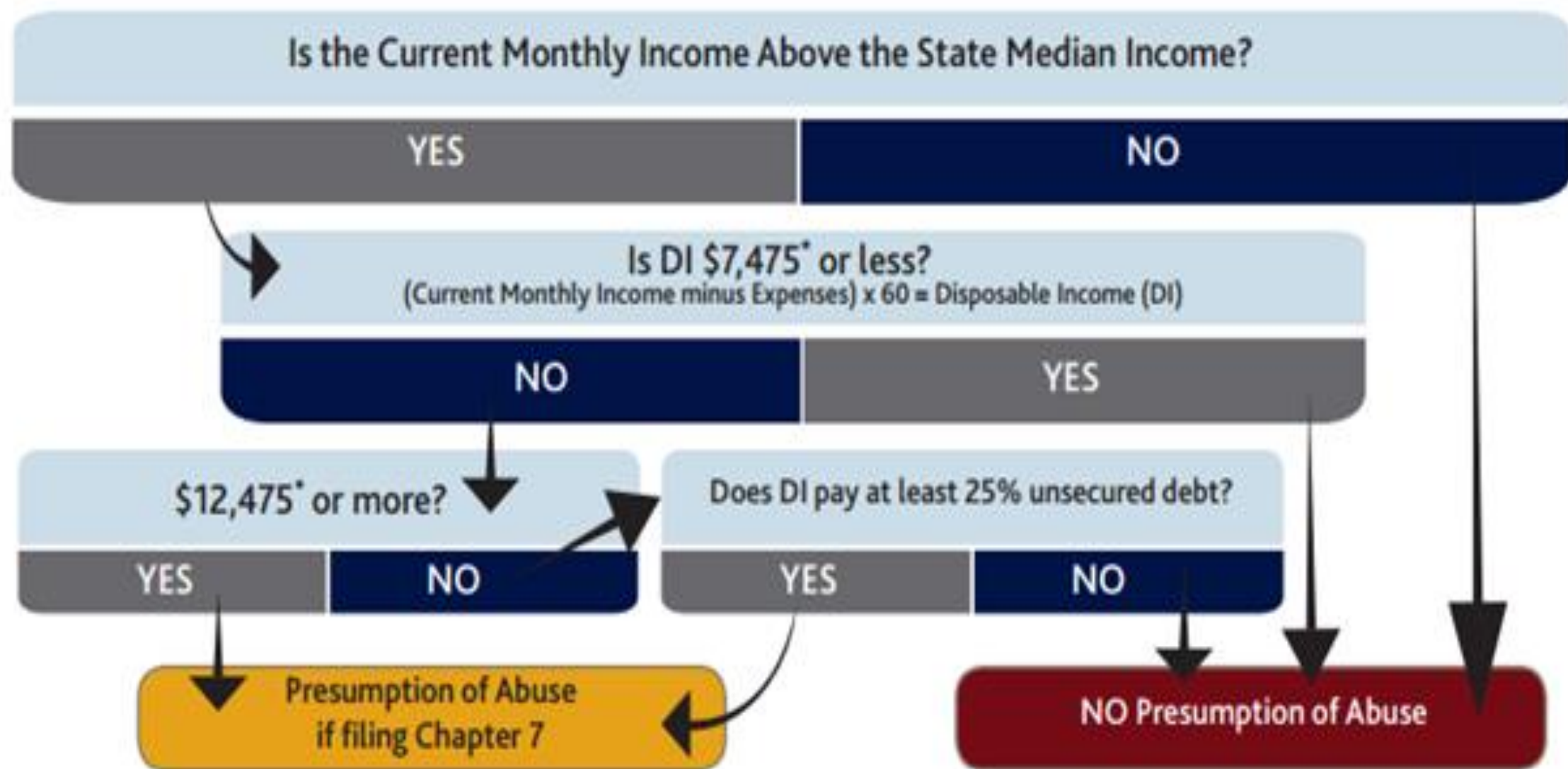
Highlights of “Means test”

Creates a way out for those who are overwhelmed by their debt.

- Bankruptcy means test allows people a chance to rebuild credit.
- Passing the means test clears debt for many people during times of hardship.
- Keeps interest rates low, making them obtainable for everyone.
- Prevents consumers from abusing the bankruptcy laws.
- Higher income debtors are no longer relieved from their debt. (Chap13)
- Child support alimony takes priority over creditors.
- Before debt is relieved they must take a mandatory financial counseling course.
- 5 year payment plan(Chap 13)
- Designed with creditors in mind. (Chap13)

Means Test Flow Chart

**Amount subject to adjustment on 4/01/16*



The pros and cons of a Chapter 7 bankruptcy are designed so that the people who need financial help right now are able to receive it. Many people wait far too long to file for bankruptcy and it winds up being a last-ditch desperation effort. If you are struggling to meet your debt obligations, then consider these pros and cons today.

YOU DESERVE A FRESH START



BANKRUPTCY

- Chapter 7
- Chapter 13

- **Final Thoughts**

- We evaluated the means test to be fair to both debtors and creditors because of the manner in which they calculate whether you can afford to pay off debt.
- We would conduct it the same way because we do think it is fair. In our opinion the means test is not mean, perhaps only stressful.(under chap 13 & waiting to see if you pass for chap.7)
- Means test is fair because it prevents things such as fraud and gives priority to debtors with unpaid child alimony over creditors. We evaluated it to be fair because the bankruptcy "means test" determines whether your income is low enough for you to file Chapter 7 bankruptcy.
- It's a formula designed to keep filers with higher incomes from filing for Chapter 7 bankruptcy. The means test holds the debtor responsible for his debt and keeps people from abusing bankruptcy laws.

