

## Discharge in a Chapter 13 Bankruptcy

The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor. A creditor who violates this order can be required to pay damages and attorney's fees to the debtor.

### Debts That are Discharged

The chapter 13 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt is provided for by the chapter 13 plan or is disallowed by the court pursuant to section 502 of the Bankruptcy Code.

### Debts that are Not Discharged

Some of the common types of debts which are not discharged in a chapter 13 bankruptcy case are:

- a. Debts that are in the nature of alimony, maintenance, or support;
- b. Debts for most student loans;
- c. Debts for most restitution and criminal fines;
- d. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle, vessel, or aircraft while intoxicated;
- e. Debts provided for under section 1322(b)(5) of the Bankruptcy Code (long term debt)

### Debtor's Certified Motion for Discharge

Any debtor seeking entry of a discharge under 11 U.S.C. Section 1328(a) in a case filed on or after April 20, 2005, shall file the local form "Debtor's Certified Motion for Discharge and Notice of Deadline to Object" (IANB1328) upon completion of all payments under the plan.

NOTE: The Clerk's Office cannot issue the discharge until the debtors have filed the Certified Motion for Discharge. Debtors should not file the motion until they have made their last plan payment.

### Financial Management Certificate

Individual debtors filing under chapter 13 must complete an approved financial management course in order to receive a discharge in their case. The Financial Management Course provider may docket the Personal Financial Management Certificate (a copy of the actual certificate of completion) or you or your attorney may submit/docket the Certificate of Completion – Form B423, the official form which the debtor signs, certifying completion of the course in Financial Management. This must be done no later than the last payment made by the debtor as required by the plan or the filing of a motion for entry of a discharge under § 1328(b) in a chapter 13 case. Failure to file the certification may result in the case being closed without an entry of discharge.

### Domestic Support Obligations

Debtor must be current on Domestic Support Obligations prior to confirmation of plan. Debtor must certify that current support debt has been paid before a discharge can enter.

\* This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.