

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MONTANA**

**Guide for Debtors Filing Bankruptcy
Without an Attorney**



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Introduction

Welcome to the Bankruptcy Court for the District of Montana. Our mission is to provide exceptional service to every customer. This guide provides basic information to prepare your case for filing, explains what is expected of you while your case is pending, and details what you may expect after your case is closed. As you read through the guide, please reference the glossary for definitions of common bankruptcy terms. Also, please tolerate (or skip!) the short overview of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. You may find it helpful and educational.

Please review each section carefully prior to filing your case. Then refer to sections again as necessary during and after your case is filed and later closed.

In addition to this guide, please read [Bankruptcy Basics](#), published by the Administrative Office of the United States Courts, and view [online videos](#) outlining various aspect of bankruptcy cases. These resources can give you a broad overview of how bankruptcy works.

If you have any comments regarding this guide, any suggested topics, or if you believe an existing topic needs elaboration or clarification, please write the court at:

Clerk of Court
Attn: Self Representation
P.O. Box 8537
Missoula, MT 59806



Overview - the Code and the Rules

Bankruptcy is a legal procedure developed to deal with debt problems of individuals and businesses. Specifically, it involves the filing of a case under one of the chapters of Title 11 of the United States Code (the [Bankruptcy Code](#)). The federal laws enacted by Congress constitute the Bankruptcy Code.

Bankruptcy laws in the United States have changed significantly since their inception in 1787. A substantial change occurred in 2005 when Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA). BAPCPA made several significant changes to the law affecting consumer debtors like you. Including a “means test” requirement in chapter 7 cases, additional provisions under 11 U.S.C. §707(b) regarding dismissal for abuse, and limitations on the automatic stay for those who file more than one bankruptcy case.

In addition to the statutory requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (Federal Rules or [Fed.R.Bankr.P.](#)) are rules developed to secure the just, speedy, and inexpensive determination of every case and proceeding pending before the bankruptcy courts. These rules govern the conduct of all cases. Courts also develop their own set of [local rules](#) to promote simplicity in procedure, fairness in administration, and efficient determination of contested matters. You will often see the Bankruptcy Code and Rules cited in notices and orders you receive from the court.

Since you are filing your case without an attorney, any reference in the Montana Local Bankruptcy Rules to “attorney” applies to you, unless otherwise noted. In addition, any reference to “debtor” includes both “debtors” in a joint case.

Legal Services

The decision to file for bankruptcy is a serious matter. Depending on your financial condition and the reasons for filing, the consequences of filing for bankruptcy protection may outweigh the benefits. The timing of the filing may be very important as well.

While you may be capable of prosecuting your own case, bankruptcy is a complex process and we highly recommend you retain the services of an attorney. If you need help finding a bankruptcy attorney or you feel you cannot afford an attorney, there are options for free or lower cost assistance based on your income and assets, including:

[Montana Legal Services Association](#)
(1-800-666-6899)
[Montana Bar Association](#)
(406) 442-7660

Please keep in mind that court staff are prohibited from providing advice to parties regarding their rights with respect to a bankruptcy case or proceeding before this court.

Overview - Chapter 7 and Chapter 13

The most common types of bankruptcy cases are Chapter 7 and Chapter 13. Chapter 7 is a liquidation chapter. In chapter 7, the trustee reduces your nonexempt assets to cash. Exempt assets are property you can keep. Non-exempt assets are a possible means for paying back your creditors. Generally, non-exempt assets include: valuable artwork, jewelry, coin collections, a property that is not your primary residence, or a vintage vehicle with equity. The trustee will sell non-exempt assets in order to distribute the proceeds of your bankruptcy estate to creditors. In exchange for your cooperation, full disclosure, and turnover of non-exempt assets, you are entitled to receive a discharge and eliminate most debts.

Chapter 13 is a reorganization chapter available to individuals with regular income who do not exceed certain debt limitations. All Chapter 13 Debtors must propose a plan of reorganization using the appropriate form. A plan requires monthly payments to a trustee who distributes the money in accordance with the confirmed plan. The plan term is between three to five-years, depending on the type of debts you have, your assets, and your income and expenses. As soon as practicable upon completion of all plan payments, and assuming you are eligible to receive a discharge, you will receive your discharge upon the Chapter 13 Trustee's statement of completion and request for discharge.

Filing a Case

To file a bankruptcy case, you must complete and file a Voluntary Petition using the appropriate official form. Click [here](#) for all official bankruptcy forms.

The Bankruptcy Code requires that you (an individual debtor filing for bankruptcy relief) receive a credit counseling briefing within 180 days **before** you file your case¹. The briefing may be in-person, over the phone, or on the internet, and must be provided by a nonprofit budget and credit counseling agency approved by the United States Trustee. Click [here](#) for a list of approved agencies. The counseling agencies charge a small fee for their services, which may be waived on a case-by-case basis; consult with the counselor about the availability of a waiver. A certificate of completion of the credit counseling briefing must be filed with your bankruptcy petition. There are certain exemptions to the credit counseling requirement if you are incapacitated or disabled, or on active military duty. You must file a motion (written request) seeking a waiver of this requirement at the time you file your case if an available exemption applies to you.

When you file bankruptcy, there are a minimum number of forms you must complete and submit to the court, along with any filing fee, or Application to Pay Filing Fee in Installments, for your bankruptcy to be valid.

¹ The limited exceptions to this requirement are found in [11 U.S.C. 109\(h\)\(2\)-\(4\)](#).¹

Below is a list of minimal requirements for filing a Chapter 7 or Chapter 13 case:

CHAPTER 7

- Chapter 7 Voluntary Petition for Individuals **Form B101**
- Your Statement About Your Social Security Numbers **Form B121**
- Certificate of Credit Counseling (you must adhere to the credit counseling requirements above. However, the Certificate of Credit Counsel is not due until **14 days** after filing of the petition.)
- List of Creditors/Creditor Mailing Matrix ([typed list – L.R. 1007-2](#))
- Filing Fee, Application for Individuals to Pay the Filing Fee in Installments, **Form B 103A**
or Application to Have the Chapter 7 Filing Fee Waived **Form B103B**

CHAPTER 13

- Chapter 13 Voluntary Petition for Individuals **Form B101**
- Your Statement About Your Social Security Number **Form B121**
- Certificate of Credit Counseling (you must adhere to the credit counseling requirements above. However, the Certificate of Credit Counsel is not due until 14 days after filing of the petition.)
- Certificate of Credit Counseling (you must adhere to the credit counseling requirements above. However, the Certificate of Credit Counsel is not due until **14 days** after filing of the petition.)
- List of Creditors/Creditor Mailing Matrix ([typed list – L.R. 1007-2](#))
- Filing Fee or Application for Individuals to Pay the Filing Fee in Installments **Form B 103A**

The next two pages contain comprehensive lists of all required official and local forms to file a complete Chapter 7 (individual) or Chapter 13 case. With that in mind, you are encouraged to go beyond the minimum filing requirements and file a complete petition packet when you commence your case. If you file a complete petition packet, rest assured there are no initial document deficiencies that could result in the dismissal of your case later.

U.S. Bankruptcy Court
District of Montana

Chapter 7 Checklist (For Individuals)

BEFORE YOU FILE:

- Certificate of Credit Counseling

Counseling must be completed within 180 days BEFORE the filing of your bankruptcy case. Click [here](#) for a list of approved agencies. You may seek a temporary waiver of this requirement by filing a written request.

WHEN YOU FILE:

Official Forms:

Form Number

- | | |
|--|-------------|
| - Voluntary Petition for Individuals Filing for Bankruptcy | B101 |
| - Statement About Your Social Security Numbers | B121 |
| - Statement of Financial Affairs | B107 |
| - Summary of Assets and Liabilities & Certain Statistical Info | B106 |

Schedules

Form Number

- | | |
|--|----------------|
| - Schedule A/B | B106A/B |
| - Schedule C | B106C |
| - Schedule D | B106D |
| - Schedule E/F | B106E/F |
| - Schedule G | B106G |
| - Schedule H | B106H |
| - Schedule I | B106I |
| - Schedule J | B106J |
| - Declaration About An Individual Debtor's Schedules | B106Dec |
| - Bankruptcy Petition Preparer Notice, Declaration, and 342(b) for Individuals Filing for Bankruptcy | B2010 |
| - Employee Income Records OR Statement Concerning No Employee Income Record | |

Chapter 7 checklist cont. on next page

- Chapter 7 Statement of Your Current Monthly Income **B122A-1**
- Chapter 7 Means Test Exemption, *if applicable* **B122A-1Supp**
- Chapter 7 Means Test Calculation, *if applicable* **B122A-2**
- Statement of Intention **B108**
- Disclosure of Compensation of Petition Preparer **B2800**

Payment

Current Fee Schedule

OR

- Application For Individuals to Pay the Filing Fee in Installments **B103A**
- OR**
- Application to Have the Chapter 7 Filing Fee Waived **B103B**

U.S. Bankruptcy Court
District of Montana

Chapter 13 Checklist

BEFORE YOU FILE:

Certificate of Credit Counseling

Counseling must be completed within 180 days BEFORE the filing of your bankruptcy case. Click [here](#) for a list of approved agencies. You may seek a temporary waiver of this requirement by filing a written request.

WHEN YOU FILE:

Official Forms:

Form Number:

- | | |
|--|----------------|
| - Voluntary Petition for Individuals Filing for Bankruptcy | B101 |
| - Statement About Your Social Security Numbers | B121 |
| - Statement of Financial Affairs | B107 |
| - Statement of Assets and Liabilities & Certain Info | B106Sum |
| - Schedule A/B | B106A/B |
| - Schedule C | B106C |
| - Schedule D | B106D |
| - Schedule E/F | B106E/F |
| - Schedule G | B106G |
| - Schedule H | B106H |
| - Schedule I | B106I |
| - Schedule J | B106J |
| - Declaration About an Individual Debtor's Schedules | B106Dec |
| - Bankruptcy Petition Preparer Notice, Declaration, and
Signature OR the Notice required by 11 U.S.C. § 342(b)
for Individuals Filing for Bankruptcy | B2010 |
| - Employee Income Records OR Statement Concerning
No Employee Income Record | |
| - Chapter 13 Statement of Your Current Monthly Income | B122C-1 |
| - Chapter 13 Calculation of Your Disposable Income | B122C-2 |
| - Statement of Intention | B108 |
| - Disclosure of Compensation of Petition Preparer | B2800 |

Chapter 13 checklist cont.

Local Forms

- Chapter 13 Plan **Mont. LBF 19**
- Domestic Support of Obligation **Mont. LBF 30**

Payment

Current Fee Schedule

OR

Application For Individuals to Pay the Filing
Fee in Installments

B103A

How to File

As a debtor filing your own paperwork, you may file documents with the Court using any of the following methods:

- In person at the Clerk's Office in any of 4 locations below:

Mike Mansfield Courthouse
400 North Main Street, 2nd Floor
Butte, MT 59701

Missouri River Courthouse
125 Central Avenue West
Great Falls, MT 59404

James F. Battin Federal Courthouse
2601 2nd Avenue North
Billings, MT 59101

Russell Smith Federal Courthouse
201 E. Broadway
Missoula, MT 59802

- by mail at:

U.S. Bankruptcy Court
400 North Main Street, 2nd Floor
Butte, MT 59701

After you file a case, you must include your name and bankruptcy case number at the top of any additional document(s) you file with the Court. Your bankruptcy case number is unique to you. For example, a bankruptcy case number looks like this: 19-60001-BPH. It consists of a two-digit filing year, a five-digit number unique to your case, and the initials of the judge for whom your case is assigned.



When filing a motion or notice with the Court, it is important to caption your pleading properly. For example, a case caption appears at the top of the first page as follows:

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

JOE DEBTOR,

Debtor.

Case No. **19-61001-BPH**

MOTION FOR [insert relief here]

Motions are written applications made to the court seeking an order directing that some act be done. A motion must specify the action requested and the reasons for the request. A motion usually contains citations to the Bankruptcy Code or case law that supports the requested relief.

Time Limits

If you need an extension of time to file any document, and if an extension is permissible in your instance, you must file a motion with the Court **before** the original filing period expires.

Time periods are set by the Bankruptcy Code, applicable Rules, or Court Order, and you will be expected to know when documents are due even though you are not an attorney.

According to the Federal Rules, you have fourteen days from the date your bankruptcy petition is filed to file certain statements and schedules (if you have not already filed them). In this situation, you will receive a notice from the Court with the date by which to file these missing required documents. If you fail to file them by the date in the notice or fail to timely seek an extension of time to do so, your case will be dismissed.

Filing Fees

The clerk of Court collects fees on certain documents. For example, there is a fee to file a new case, amend certain schedules, convert your case from one

chapter to another chapter, and file certain motions. Please consult the [fee schedule](#) for all applicable fees.

Payment of all fees, whether in person or through the mail, must be made in the form of cashier's check or money order. **No personal checks or credit/debit cards are accepted.** All cashier's checks and money orders should be payable to Clerk, U.S. Bankruptcy Court.

If you cannot pay the entire filing fee when you file your case, you must file an application to pay in installments, or an application to have the fee waived. If your application to pay in installments is granted, you are required to pay the entire fee within 120 days after you file, and the court must approve your payment timetable. Generally, the Court approves a timetable that the debtor proposes on Application for Individuals to Pay the Filing Fee in Installments ([Official Form 103A](#)).

For your fee to be waived, the following statements must be true:

- You are filing for bankruptcy under Chapter 7.
- You are an individual
- The total combined monthly income for your family is less than 150% of the official poverty [guideline](#) last published by the U.S. Department of Health and Human Services.
- You cannot afford to pay the fee in installments.

Upon reviewing your application to have the fee waived, the court may waive the fee, set a hearing for further investigation, or require you to pay the fee in installments or in full.

What to Expect During Your Case

Automatic Stay. Upon filing your case, the automatic stay goes into effect. The automatic stay is an automatic injunction, with certain exceptions, freezing collection activity against you. The automatic stay gives you a "breathing spell" or an opportunity to get your financial affairs in order free from creditor interference. However, there are exceptions or exclusions to the automatic stay. They are listed in the Code, see [11 U.S.C. § 362\(b\)](#). In addition, the automatic stay does not last forever, see [11 U.S.C. § 362\(c\) and \(d\)](#).

Judge and case trustee. Upon filing, your case will be assigned to a bankruptcy judge and a case trustee. If you file a chapter 7, your case will be randomly assigned to one of the private case trustees appointed by the United States Trustee Program, a division of the Department of Justice. If you file a chapter 13 case, you will be assigned to the one standing chapter 13 trustees in this district.

List of Creditors. You must file an accurate and complete typed list of creditors which includes the name, mailing address, and zip code of each creditor

listed on your schedules. If you subsequently amend schedules and add creditors whose names and addresses were not listed on the original schedules, you will need to pay a fee to the Court, and you must send such additional creditors a copy of the Notice of Meeting of Creditors and any subsequent notice in a Chapter 7 case regarding the bar date (if any, for filing proofs of claim). See [Mont. LBR 1009-1](#) for more information on amendments.

Meeting of Creditors (341 Meeting). The United States Trustee and the panel trustees appointed by that office convene and preside over the meeting of creditors. After you file your case, the clerk will mail you, all parties, and all creditors in your case a notice of bankruptcy filing. This notice will include the date, time, and location of your mandatory 341 meeting with the case trustee (not the judge).

As a debtor in bankruptcy you have certain duties to perform. These duties include providing documents or copies of documents to the case trustee related to your income, expenses, banking history, and other accounts. Additionally, at least one week before your scheduled 341 meeting, you must provide your case trustee with a copy of your federal tax return for the tax year ending immediately before your case was filed and for which a return was filed. The case trustee may send a letter in advance of the meeting to help you better prepare.

Personal Financial Management Course. You must file a statement of completion of a course concerning personal financial management if you are seeking a discharge. Click [here](#) for a list of approved course providers. You will receive a notice from the Court to file this certificate. Failure to file this certificate may result in your case being closed without a discharge. If you wish to reopen your case to file the certificate and obtain a discharge, you must file a separate motion and pay an additional fee.

Email Notifications in Your Case. For your convenience, the Court offers you the option to receive email notifications in your case (in lieu of paper documents through U.S. mail). To request email notifications, please visit the court's webpage at: <https://www.mtb.uscourts.gov/debtor-electronic-bankruptcy-noticing-debn> (Debtor Electronic Bankruptcy Notice (DeBN)).

To opt-in for email notifications, your email program must have Adobe Acrobat Reader installed. When you opt-in to email notifications, you will opt-out of receiving hard copies in the mail. Any documents emailed to you will be your only copy of these documents and you will only have **one** opportunity to view them. We recommend you view the document by **single-clicking on the document number**, then print or download it to review later. If you attempt to look at a document a second time, you will be directed to [PACER](#) and required to open an account and pay a fee to view the document. We also recommend that you view and download using a laptop or home computer rather than a smart phone or other handheld device.

Amending a Schedule. From time to time, you may need to file an

amendment to your original documents. There is a fee to amend schedules D, E/F, and the list of creditors. Additionally, you must provide notice of any amendment to the trustee and to any party or creditor affected by your amendment. This usually entails filing your amended statement or schedule with the court, and mailing a copy of the amendments, the notice of bankruptcy filing, and any subsequent notice in the case, to the additional parties/creditors listed on the amendment. See Fed. R. Bankr. P. 1009(a) and Mont. LBR 1009-1 for more information.

What to file when amending Schedules D and E/F to add creditors:

- the amended schedule;
- List of Creditors/Creditor Mailing Matrix (only the newly added creditors);
- the Debtor's Notice of Amendment to Schedules, [Mont. LBF 4](#);
- a Certificate of Service, [Mont. L.B.R. 9013-1.2](#);
- and any applicable [filing fee](#).

Amending the Statement About Your Social Security Number. You must file the Statement About Your Social Security Number at the start of your case. This document is entered on the docket but is not available for public inspection at the court or over the internet. If you made a mistake on this document, you must correct the mistake, submit an amended statement to the Court, and file a certificate of service showing service of the amended statement on the United States Trustee, the case trustee, and all creditors. You may find an example of how to amend your social security number at: https://www.mtb.uscourts.gov/sites/mtb/files/RBK_GO04-02.pdf

Discharge. Most debts are covered by the discharge, but not all. Generally, a discharge removes your personal liability for debts incurred before your case was filed. A creditor with a lien on property (for example, your mortgage creditor on your home) may foreclose or pursue their state law remedies notwithstanding the bankruptcy discharge; however, that creditor is precluded from seeking a money judgment against you personally for any deficiency. Here are common debts not discharged in bankruptcy:

- Domestic support obligations;
- Student loans;
- Debts subject to a pending adversary proceeding;
- Debts for fines, penalties, or criminal restitution obligations;
- Debts that were not properly listed by you in the bankruptcy schedules and list of creditors;
- Debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans; and
- Debts for death or personal injury caused by you while operating a vehicle while intoxicated.

A discharge in bankruptcy releases you from personal liability on certain types of debt. It also operates as a permanent injunction on collection of discharged

debts. Your discharge is an important event in your case. If you need a copy of your Order Discharging Debtor, you may obtain this by writing the court or visiting the court in-person. If you need an immediate copy of your discharge, please visit the PACER site at: <https://www.pacer.gov/>.

A creditor or party in interest may file a lawsuit objecting to your discharge, or the discharge of a particular debt. This lawsuit is called an adversary proceeding. There are very specific procedures associated with adversary proceedings and you are advised to seek competent legal counsel to represent you if you are named as a Defendant in such a lawsuit.

Dismissal. Your case could be dismissed for a variety of reasons, including but not limited to failure to file required documents, failure to file tax returns, failure to comply with a court order, or failure to make plan payments in a chapter 13 case. Regardless of the reason, if your bankruptcy case is dismissed (not completed) you will not receive the benefits of a discharge. The dismissal of your case may affect your ability to file a bankruptcy case in the future. Also, in the event you are allowed to file another bankruptcy case, the protections offered to you by the Bankruptcy Code may be limited.

Closing without Discharge. In certain cases, in which the administration is complete, but you failed to meet all the necessary requirements for receiving a discharge, your case will be closed without a discharge. This means you will not receive the benefits of the discharge. If you wish to reopen your case to file the necessary document(s) and obtain a discharge, you must file a separate motion and pay an additional fee.

Administrative Matters

How to Obtain Copies. You have three options:

- Come to the Bankruptcy Court at any of the four locations listed on page 8. The clerk's office can print off any documents from your case. The cost is \$.10/page, and payment is accepted with exact cash, money order or cashier's check.
- You may order documents over the phone for mailing to you. The cost is \$.50/page.
- You may visit the PACER Service Center <https://www.pacer.gov> and subscribe to their service. You will need to provide a credit card number. Once you have a PACER login, you may access all documents within your case from any computer or device with internet access.

Questions? You can call the court or visit the court in person if you have an inquiry regarding your case. Court employees cannot give legal advice, but they can answer general, procedural questions.

- Help line: (888)-888-2530; (406)-497-1240

The helpdesk for debtors filing without an attorney is available 8:00 a.m. to 5:00 p.m. The clerk's office cannot provide legal advice, which includes the following:

- Advising you which chapter to file under;
- Advising you whether your debts, including taxes, will be discharged;
- Advising you whether you will be able to retain your home, car, or other property after you file;
- Advising you of the tax consequences of filing a bankruptcy case;
- Advising you on how to properly list property, debts, and exemptions on your bankruptcy documents;
- Advising you on the best procedure to accomplish a particular goal;
- Explaining the meaning of a particular law or rule;
- Explaining the result of taking or not taking an action in a case;
- Helping you complete forms;
- Telling you in which state to file your case;
- Explaining who should receive proper notice or service;
- Questions regarding your credit report;
- and Explaining bankruptcy procedures and rights.