

CLOON LEGAL SERVICES INFORMATION HANDOUT

The purpose of this handout is to explain generally your options on how to handle your debt, and how bankruptcy works.

I. Kinds of Bankruptcy

There are two kinds of bankruptcy available for individuals and families - Chapter 7 and Chapter 13. Chapter 11 and Chapter 12 are also kinds of bankruptcy, but Chapter 11 is a type of bankruptcy reserved for large corporate reorganizations and Chapter 12 is for farm bankruptcy.

Since Chapter 11 does not usually pertain to individuals whose debts are primarily consumer debts, further information about Chapter 11 will be provided by reference to the following resource: The "Bankruptcy Basics" brochure prepared by the Administrative Office of the United States Courts, dated June 2000, and which can be accessed over the internet by visiting the following website:

<http://www.uscourts.gov/bankruptcycourts/bankruptcybasics.html> .

Chapter 12 of the Bankruptcy Code was enacted by Congress in 1986, specifically to meet the needs of financially distressed family farmers. The primary purpose of this legislation was to give family farmers facing bankruptcy a chance to reorganize their debts and keep their farms.

However, as with Chapter 11, since Chapter 12 does not usually pertain to individuals whose debts are primarily consumer debts, further information about Chapter 12 will be provided by reference to the same "Bankruptcy Basics" brochure referred to above, which can be accessed over the internet at the same said website as mentioned for Chapter 11.

Your eligibility for bankruptcy depends on how much you earn, how many people are in your family and how much debt you have. Without speaking directly with you, it is impossible to tell which kind is best for you. However, over 85% of the people we talk to are qualified to do a Chapter 7, and over 95% are qualified to do a Chapter 13.

The information below gives you a general idea of what the different bankruptcies are like, and whether it is something that might help you. It is not a substitute for a consultation with a competent bankruptcy attorney. You should also not rely on advice given to you by debt counselors, mortgage lenders or well-meaning friends. Bankruptcy is a specialized area of law, and due to the changes brought about by the recent changes to the Bankruptcy Code in late 2005, much of the information you would get from them is no longer valid, and could in fact be harmful.

Cloon Legal Services provides free consultations, and there is no obligation. We are not in the business of selling bankruptcies. We are a law firm dedicated to helping people find the best way out of financial crises.

II. Chapter 7

A. *Types of debt*

There are two kinds of debt - secured and unsecured. Secured debts are those kinds of loans with collateral pledged on them, for example, car loans and house loans. Most loans from finance companies, such as HFC, ITT, Beneficial and American General, are usually also secured. In addition, some credit cards can be secured. For example, jewelry store credit cards (Helzberg's, Zale's) and electronic store credit cards (Radio Shack, Best Buy) usually claim a security interest in items purchased on the cards.

Most other kinds of debt are unsecured. Examples are medical bills, VISA and Mastercard-type credit cards, utility bills, personal loans, rent and phone bills.

B. What Happens to Debt

Unsecured debt

Chapter 7 generally "wipes out" unsecured debt, and gives you four options on secured debt. All your unsecured credit card debt and medical bills will go away, and the creditors can never try to collect it again.

However, some types of unsecured debt are generally not dischargeable (dischargeable means wiped out) in bankruptcy:

1. Taxes (unless more than 3 years old & returns filed on time);
2. Student loans (unless extreme hardship - must be totally & permanently disabled);
3. Alimony;
4. Child support;
5. Debts you were ordered to pay in a divorce decree;
6. Court fines and penalties;
7. NSF checks.

There are some other unusual kinds of debt that are not dischargeable. When the attorney reviews your debts, he will be able to tell you if there are any of your debts that may fall into this category.

Secured debt

In Chapter 7, you have four options for the treatment of secured debt:

1. Surrender the secured property and wipe out the debt.

Example: Suppose you have a car that is worth \$3,000, and you owe \$5,000 on it. Outside of bankruptcy, if you give back the car, the lender will sue you for the \$2,000 difference between what the car is worth and what you still owe (this is called a "deficiency"). In bankruptcy, they cannot do that.

2. If you are current on the payments, and wish to keep the property, you can do so, and the loan will be unaffected. You can enter into a special agreement with the lender, called a **reaffirmation agreement**. If you do so, you must catch up on any past-due payments prior to entering into the agreement, and then continue to make the rest of the payments on time. However, if you later fail to honor this agreement, then the lender can not only repossess the secured property, but can sue you for any deficiency.

Example: Suppose, in the above car example, that you kept the car, and signed a reaffirmation. You would have usually 30-60 days to catch up on the payments, and would keep the car. Later, if you quit making the payments, the lender could repossess the car and sue you for the unpaid deficiency just as though you had never filed for bankruptcy.

3. If you are not current on the payments, and wish to keep the property, you can make a cash settlement offer which is based on the value of the secured property. This is called **redemption**.

Example: Suppose you have a Best Buy account with a balance of \$3,000, and the only secured property on it is a three-year-old refrigerator worth only \$300. It doesn't make sense to keep making payments on \$3,000 to keep a \$300 refrigerator. So, in this case, you would pay Best Buy \$300 cash, keep the refrigerator, and wipe out the remaining \$2,700 on the account. However, both you and the lender must agree on the value of the property.

4. If you are current on the payments, wish to keep the property, but cannot afford to pay the value in cash, you can continue to make the payments without reaffirming the debt. Under Kansas law, there are only 2 ways a lender can repossess secured property - failure to make the payments on time, and "impairment of collateral" (such as failure to maintain full-coverage insurance). However, many lenders are now taking

the position that the new bankruptcy law allows them to declare default and repossess even if you are current, if you fail or refuse to sign a reaffirmation agreement (see #2 above). We disagree with this, but we do not guarantee that they will not try it. If they do, the burden would be on you to file a lawsuit against them in state court to try to get your car back, which could cost you several hundred dollars or more. However, if you choose to let them keep the car, the debt would be wiped out, so if they are upside-down (you owe them \$5000 on a \$3000 car), it doesn't make a lot of sense for them to repo the car so long as you are making the payments. If you are seriously upside-down, you should consider discussing this option with the attorney.

III. Chapter 13

Chapter 13, also known as the "wage-earner's plan", also "wipes out" the same unsecured debt that Chapter 7 does, and sometimes more. For example, debts you were ordered to pay in a divorce may not be dischargeable in a Chapter 7, but are dischargeable in a Chapter 13. In addition, Chapter 13 allows you to consolidate your secured debt and non-dischargeable debt into one monthly payment at a lower interest rate than you are now paying, and that payment is usually much lower than your payments are now.

Advantages of Chapter 13

Chapter 7 is primarily for people who could make the payments on their secured debt (e.g., house and car) and non-dischargeable debts (e.g., taxes, student loans and child support), if the unsecured debt (i.e., credit cards and medical bills) were wiped out. However, for someone who has a lot of secured and/or non-dischargeable debt, Chapter 7 would not help, since they would still have high monthly payments.

In Chapter 13, we add up the total of your secured debt (excluding your house payment and any lease payments or rent-to-own payments, which you would continue to make outside of bankruptcy) and non-dischargeable debt, and arrange a payment plan which can last up to 60 months, depending on how much you owe and how much you can afford to pay per month. You would make these monthly payments, based on your budget, to a Trustee, who would then pay your creditors out of your payments. During the time you are making these payments, the creditors cannot bother or harass you. Once you have completed making all the payments, you would be debt-free (except for your mortgage and unpaid student loan balances, if any). You can pay it off early without penalty.

If you are behind on your house payments, in Chapter 7, you have about 60 days to catch up or you could lose your house. In Chapter 13, any amount you are behind (regardless of how much) can be paid off through your payments to the court over a period as long as 5 years. This is true even if there has been a foreclosure case filed, although the bankruptcy must be filed before the sheriff's sale takes place or it is too late.

Also, as noted above, some debts such as taxes are not dischargeable in bankruptcy. For example, if you owed the IRS \$10,000, Chapter 7 could not help you, and the IRS would still want their money immediately. However, in Chapter 13, the IRS must get their money from the monthly payments, and would not be able to force you to pay sooner (however, interest and penalties continue to accrue during the repayment period, and you should be ready to make arrangements on these when you complete your case).

Another advantage of Chapter 13 is in the amounts you can pay back. Remember the car example from the previous section? If you have a car worth \$3,000, and you owe \$5,000 on it, in Chapter 7, you have the following choices:

1. Surrender the car and wipe out the debt;
2. Pay the \$3,000 value of the car in cash now, keep the car and wipe out

the remaining \$2,000 excess debt; or

3. Pay the entire \$5,000 in payments as per the original agreement.

In Chapter 13, if you have owned the car for less than 910 days (two and a half years), you must pay the full amount owed. However, our judge in Kansas City has ruled that you are not required to pay any interest on the loan. So if you owed \$15,000 on the car, for example, and your interest rate was 10%, you could save close to \$4000 in interest. If you bought the car more than 910 days before filing, you pay whichever is less - the amount owed or the Kelly Blue Book value. You would have to pay a discount interest rate of approximately 7% (unless your contract rate is less).

A final advantage of Chapter 13 is the attorney fee provision. In Chapter 7, although the attorney fees are less, because there is less work in drafting a Chapter 7 and because it is usually over with in six months, the attorney fees are due before the case can be filed (this is not because we don't trust you; it is because the Supreme Court has ruled that any attorney fees in a Chapter 7 which are not paid as of the date of filing are discharged the same as other debts - and we wouldn't be in business very long if we kept bankrupting our own fees!).

In Chapter 13, attorney fees are included in the repayment plan along with the secured debts, and are paid over the life of the plan (the Bankruptcy Code specifically says that the fees may be included in the plan payment, so the Court couldn't rule that they are dischargeable like they did in Chapter 7). So, if you can't come up with the attorney fees in advance, you can still file and get immediate protection.

IV. Comparison of Chapter 7 and Chapter 13

Remember - both Chapter 7 and Chapter 13 wipe out the same unsecured debts. The major difference is in how the secured and non-dischargeable debts are repaid.

When Chapter 7 is Better

Chapter 7 is usually a better choice when:

1. Most of your debts are unsecured, and you would not have a problem making your house and car payments if the credit cards, medical bills and other unsecured debt were wiped out;
2. If you are current on your payments on the secured debt, particularly your house;
3. If you have no non-dischargeable debts such as taxes or student loans; and
4. If you are able to come up with the attorney fees and the filing fee in advance.

When Chapter 13 is Better

If you fall into one of the following categories, Chapter 13 may be a better choice for you:

1. You have a large amount of secured debt; or
2. You are behind on your payments on the secured debt; or
3. You owe more on your secured property than it is worth (for example, your car is worth \$3,000 and you owe \$6,000 on it); or
4. You owe non-dischargeable debts such as taxes, student loans or back child support; or
5. You cannot afford the attorney fees upfront, but need immediate relief (although if this is your only reason, you should advise Mr. Cloon at the time of your appointment).

When the attorney meets with you, he will go over your specific situation, and discuss with you which option would work better for you.

V. Exempt Property

There is certain property you are allowed to keep in bankruptcy, and the Court will not and cannot take it. This is called **exempt property**:

1. Your house, provided you live in it* (if you have owned it less than 40 months, only the first \$125,000 of equity is exempt, and one Trustee in Kansas is arguing that only the first \$125,000 of VALUE is exempt);
2. One vehicle per person (two for a married couple), with equity of up to \$20,000 per vehicle*;
3. \$500 worth of clothing per person (based on auction/garage sale value, which is usually very low compared to what you paid for it);
4. \$1000 worth of jewelry per person* (based on auction/garage sale value, which is usually very low compared to what you paid for it);
5. \$7,500 worth of tools that are used in your job or business* (based on auction/garage sale value, which is usually very low compared to what you paid for it);
6. Pensions, Social Security, workers compensation, IRAs or life insurance cash value, regardless of the value;
7. Child support and alimony; and
8. Those household goods and furnishings reasonably necessary to maintain your current standard of living (i.e., they won't take your furniture, TV, appliances, etc.)*.

* Provided that if you owe money on any of these items, you are willing to satisfy the debt (either directly in Chapter 7 or through the plan payment in Chapter 13). The exception is tools and household goods - we may be able to file a motion to wipe out the lien on those, while still letting you keep the property. If you have a loan secured by these kinds of items, please advise the attorney during your appointment.

There are certain kinds of property that are not exempt, and you could lose them. The Trustee will sell them and give the money to your unsecured creditors (although they will often allow you the opportunity to keep them if you pay them some portion of the value, such as an extra car):

1. Cash and money in bank accounts;
2. Tax refunds;
3. Any money or property that was given or sold to "insiders" (relatives, roommates, business associates, etc.) within 2 years prior to filing (this means you cannot give your boat to your brother to keep it out of the bankruptcy court's hands, because they can go to him and get it back);
4. Any money or property that would normally not be exempt that you sold or gave away to anyone within the last 2 years prior to filing with the intent to hinder, delay or defraud your creditors; and
5. Anything else not listed in the exempt property list above.

VI. How Does it Work?

First, you meet with the attorney for your free consultation. If you are married and are considering filing jointly, it is usually much better for both of you to attend the initial appointment. You should bring with you the following **if you have it**:

1. All of your bills and collection letters (or as many of them as you have);
2. Any lawsuit paperwork (including divorce decrees and separation agreements);
3. Your last 2 federal and state income tax returns (including the W2s and 1099s);
4. Photo ID and Social Security card.

IF YOU DO NOT HAVE ALL OF THE ABOVE, COME ANYWAY. WE WILL STILL BE ABLE TO MEET AND DISCUSS YOUR OPTIONS. THE ABOVE PAPERWORK IS RECOMMENDED, BUT NOT ABSOLUTELY NECESSARY FOR THE FREE CONSULTATION.

If you decide to go forward, we will set up a second appointment to fill out the paperwork from which the attorney will draft the bankruptcy and get it ready for you to sign it. The new bankruptcy law also requires you to complete credit counseling before filing. You can do it on your own through various agencies approved by the government. We have an agreement with one of those agencies to provide the counseling by computer in our office at a cost of \$49. This is the lowest price we were able to find, and it saves you from taking an extra day off work to go to classes elsewhere. You must have the money in cash at the time of that appointment (we do not add any fees to it, this is their charge, but they charge our bank account the minute you start, so we must collect it at the time of the counseling).

Once we have received all the required documents, the attorney will draft your bankruptcy. You can come in at a convenient time to review and sign it. It will then be filed with the Court.

Once it is filed with the Court, all collection activity must stop immediately. Your creditors will receive a notice from the Court, telling them that they cannot:

1. Sue you;
2. Garnish your paycheck or bank account;
3. Repossess or seize any property of yours;
4. Send you any letters; or
5. Call to harass you for payment.

If they violate this order, notify our office immediately.

Approximately 25 - 40 days after filing, you will go to Court for a "meeting of creditors." (This is a bad choice of names, since creditors rarely show up at these meetings). You will meet with the Trustee, and will be asked a few questions to make sure you understand how bankruptcy works. It usually last only a few minutes, and there are no "trick questions", nor will there be any attempts to criticize or harass you.

Usually, this will be the only time you will have to go to Court. You will, however, have to complete a "debtor education class" before receiving your discharge. In Chapter 7, you must do it and we must file the certificate of completion not later than 45 days after you go to court. In Chapter 13, you can do it anytime prior to your discharge (although we recommend you get it out of the way as soon as possible). As with the credit counseling, you can do it in our office. The company charges \$19 per person, which is due at the time you take the course. It usually lasts less than an hour.

Approximately three to four months later, in a Chapter 7, you will receive your discharge order in the mail, and you are finished with the process. **However, the important thing to remember is that the protection and relief of bankruptcy starts on the day the paperwork is filed.**

In Chapter 13, you will go to the creditors meeting as well. At that meeting, the Trustee will give you a booklet explaining your rights and responsibilities to his office on your payments, and will review your plan with you. About one to two months later, they will hold a "confirmation hearing". You do not have to attend the second hearing; only your attorney has to be there. You will continue to make your payments, and after all payments have been made, then you will receive a discharge order, and you are finished with the process.

V. Most Frequently Asked Questions

1. Do I need to list everyone I owe, even if I plan on paying them?

You should list all creditors, even those you want to pay. Your house and car loans must be listed. This is rarely a problem, since the lender knows that

they will be taken care of. Some people don't want to list the family doctor, for example, because they want to make sure he/she gets paid and will continue to treat them. Remember, bankruptcy doesn't prevent you from paying your creditors - it only means they can't force you to pay them. You can list the family doctor, and still pay him if you choose to.

In Chapter 13, you have an additional option. You can create "special class creditors". These are creditors whose debts would normally not be paid, but that you want to pay for some valid reason. For example, the most frequently-created class is "doctors to be paid so that they will continue to see me." Those creditors are then paid through the plan payments you make to the Trustee.

2. Will bankruptcy stop garnishments, repossessions, and other collection actions, and when?

The day the papers are filed with the Court, all collection actions must stop immediately. Although bankruptcy cannot get you back money already collected by garnishment prior to the filing, it can stop future garnishments. Even if the creditor already has a judgment against you, the debt will be wiped out. With repossessions, if the vehicle has been repossessed prior to filing, unfortunately, it is our opinion that we cannot force them to give it back. However, if the vehicle has not been repossessed prior to filing, we can keep them from taking it. If any collection agencies bother you after the filing, refer them to us and we will deal with them. The penalties for creditors who violate the Court's order to stop can be very severe, and can even include jail.

3. Bankruptcy's Effect on Your Credit

Bankruptcy can remain part of a debtor's credit history for 10 years in Chapter 7, and for 7 years in Chapter 13. Whether or not the debtor will be granted credit in the future is unpredictable, and probably depends more on what good things the debtor does in the nature of keeping a job, saving money, making timely payments on secured debts, etc., than the fact that the debtor filed bankruptcy.

In some cases it may actually be easier to obtain future credit after bankruptcy, because new creditors may feel that since the old obligations have been discharged, they will be first in line. They also recognize that the debtor cannot again file bankruptcy for at least the next four years in the case of chapter 13 or eight years in the case of chapter 7. The truth is that if a debtor cannot pay his or her bills, and the debtor's credit is already ruined or exhausted, filing bankruptcy can actually be an important first step in re-building credit.

4. What is the cost, and when must I pay it?

Legal fees, like surgery bills, differ based on the type of work done and the complexity of the case. Your decision to hire an attorney, like hiring a doctor, should not be based on price alone. However, we understand that you would not be considering bankruptcy if you had a bunch of money stashed somewhere. We make bankruptcy affordable as well as understandable (Cloon Legal Services is one of the leading filers in the state, so the thousands of people we have filed cases for must have thought our fees were reasonable). Most importantly, we offer a money-back guarantee in writing, and we believe we are the only bankruptcy firm in Kansas who does. At the time of your in-person consultation with us, after careful evaluation of your case, we will give you a fee quote.

In Chapter 7, the fees are due before filing. There is also a filing fee of \$299, which goes to the Court (we don't get any of that), \$49 for the credit counseling (we don't get any of that either) and \$20 for tax transcripts from the Internal Revenue Service (nope, don't get a cut of that either). These fees are due before the bankruptcy can be filed. You do not need to bring any money to the appointment with the attorney. There is no charge for that meeting.

For an individual basic Chapter 13, **the attorney fees are not due before the case is filed - those are paid out of the payments you make to the court.** There is also a filing fee of \$274. You can pay the \$274 filing fee upfront, but you can also include it in your payment plan if you prefer. So you can get your case on file, and get immediate protection, with no legal fees or filing fees upfront. As with Chapter 7, the credit counseling and the tax transcript fees must be paid before the case can be filed.

Again, you do not need to bring any money with you to the initial appointment.

ALL FEES MUST BE PAID IN CASH OR MONEY ORDER

WE ARE NOT ABLE TO ACCEPT PAYMENT BY CREDIT CARD

(if paying by money order, you must use 2 separate money orders - 1 made payable to Russell B. Cloon [the name of our business account] and 1 made payable to Cloon Legal Services [the name of our filing fee account])

5. What happens after filing?

The court hearing is held in Kansas City, Kansas. You will receive a map when you sign your bankruptcy showing you how to get to the courthouse. You should plan to meet the attorney there approximately 20 minutes prior to the scheduled meetingtime.

I got something in the mail from the Court or the Trustee

If you receive a letter from the Trustee before the hearing asking you to provide something, such as copies of tax returns or bank statements, bring these with you to court. You must bring a copy that the trustee can keep. If you do not have access to a copier, you may bring your documents to the office and we will copy them for you free of charge.

Bring the documents to court even if the letter is addressed to your attorney and not to you. Under the clear terms of the fee agreement, it is not our responsibility to provide or obtain this documentation for you. If you fail to provide it, your case can be dismissed.

What do I do about contacts from creditors?

Your creditors will receive notice from the Court of your filing at the same time you do. It usually takes a little time for creditors, particularly the large credit card companies, to process the notice and stop billing. If you are called by a creditor prior to your creditors meeting, just give them our name and phone number, and instruct them to contact us. Just throw away any bills you get prior to the creditors meeting. However, if you are still being contacted after the creditors meeting, call us to discuss your options. If a creditor whom you forgot to list on the bankruptcy contacts you, let us know immediately. We may be able to still add them.

What should I bring to court?

You must bring photo ID (usually your Kansas driver's license or identification card will suffice) and your Social Security card. If you do not have the Social Security card or cannot find yours, the trustee will accept a pay stub if it has your Social Security number on it or a W-2 form if it has your Social Security number on it. You should also bring any documents requested by the Trustee (as noted above). **DO NOT BRING POCKETKNIVES, CELLULAR PHONES, CAMERAS, OR ANY OTHER ELECTRONIC DEVICES TO COURT WITH YOU. LEAVE THEM IN THE CAR.** You will go through a metal detector, so the less jewelry you wear, the better. Also avoid shoes with metal in them (such as steel-toed boots) and big belt buckles.

What happens during the hearing?

The Trustee will call people up to a table at the front of the room, usually

in order of case number. You will be asked a series of questions about whether you told the truth on your pleadings and if there any changes you need to make. The Trustee may also ask about tax refunds or other possible assets you may have, or about any transfers you may have made to creditors prior to filing. Assuming everything is in order, he will conclude the meeting and you will be free to go. He may ask for additional documentation, and you will generally have 7-10 days to send those to him. IT IS YOUR RESPONSIBILITY to provide this documentation, not ours. We will be more than happy to mail it to the Trustee for you, but we will not call you up to remind you or send you letters to remind you to provide it. If you forget or don't understand what the Trustee has requested, you are free to call our office and we will clarify it for you. If you do not provide what the Trustee requests, he or she can and will file paperwork that your case thrown out.

Chapter 7 -- If everything goes okay (as it usually does), you will receive your discharge order in the mail in 3-4 months. However, as the Trustee will remind you at Court, he or she still has the authority to take your tax refund or any other nonexempt property. Do not spend any tax refunds received after filing without written notice from this office or the Trustee advising you that it is okay to do so. Failure to do so can result in not only the revocation of your discharge, but criminal prosecution as well.

Chapter 13 -- Your payroll deduction should have already started by the time you go to court (assuming you are on payroll deduction -- if you are not, we highly recommend it. You have a much better chance of success on it. Please feel free to ask any staff member about this option). If you're not on payroll deduction, you must bring your first month's payment with you to court. Failure to do so will cause the Trustee to move to dismiss your case immediately. Failure to appear at the hearing will cause the Trustee to move to dismiss your case. However, he or she will usually allow us a second chance, and if you appear that hearing, you will be okay. That hearing will last approximately one-half-hour. You are required by the Court to provide your last two years worth of tax returns, as well as 60 days worth of pay stubs (we should have gotten these from you prior to filing and already emailed them to the Trustee). At the hearing, creditors have a right to appear, although they usually do not, and ask you questions about your case.

Approximately one month after this hearing, there is another hearing called a "confirmation hearing." You do not have to appear at this hearing unless your attorney advises you that your appearance is necessary. This is the hearing where the judge approves your case, assuming all the paperwork is in order and you are eligible for the requested relief. If there is a problem, we will contact you. You may have to provide additional documentation or explanations to satisfy the Court that the case was filed in good faith and that you are making your best effort. If everything goes okay (as it usually does), you will receive a confirmation order in the mail within a month or two. After that, it is usually just a case of continuing to make sure that your payments are made in a timely manner.

One other thing -- you are not allowed to gamble while you're in Chapter 13. If you do gamble while you are in Chapter 13, and the Trustee finds out (usually because it appears on your tax return), he will move to have your case dismissed.

Chapter 7 and Chapter 13 -- If you need any assistance during the pendency of your case, please feel free to call us. While you are in bankruptcy, you are not allowed to incur debt or sell property without the prior permission of the Court. Failure to follow this rule can have serious consequences. If you need to borrow money to buy a car, or you need to sell your residence or car, or you have any other issues concerning money or your bankruptcy, you should call us first before taking any action.

5. What about my tax refunds?

As previously stated, the Trustee is entitled to any tax refunds that

you were owed on the date of filing. In addition, a Chapter 7 Trustee is entitled to a prorated portion of your next year's tax refund. Do not spend it unless and until you have received a written communication from this office or the Trustee telling you that it is okay to do so. As noted above, failure to comply with this can not only result of the revocation of your discharge, but criminal prosecution as well.

In Chapter 13, we are required to send a copy of your state and federal tax returns to the Chapter 13 Trustee each year you are in Chapter 13. Please send **signed** copies to us and we will forward them to him for you. Failure to comply with this requirement will result in dismissal of your case. In Chapter 13 cases filed in Kansas City, after the first year, the Trustee allows you to keep the first \$2000 of each year's tax refunds, as well as any portion that is Earned Income Credit. Any excess must be paid into your plan. The good news is that it is treated as early payments, and goes to shorten the length of your case. If you believe that you will routinely receive more than that much each year, we recommend that you change your withholding to increase your exemptions. You can also instruct us to put the extra amount into your budget and you will generally be allowed to keep it (for example, if you get \$4800 every year, we can add \$400 per month to your income, which we can then show the court you need to pay your bills because it is already in your budget). In the alternative, if you receive an unexpectedly large refund one year, and need it for a valid emergency, we may be able to file paperwork with the Court asking permission to keep it. Call us if and when this occurs, but under no circumstances should you spend the money prior to getting permission from the Court. As previously noted, this can result in the dismissal of your case and potential criminal charges.

6. Miscellaneous

What if I have a change of Address/Phone?

It is very important that we know how to contact you concerning your case. If you move or change phone numbers, let us know immediately. We would also appreciate it if you can provide us an email address. Email is the cheapest and fastest form of communication now, and we can respond to your inquiries much quicker that way than by phone or mail. We encourage you to use email as much as possible when contacting us.

What if I need some advice?

If you have questions or problems, you can call us. Your attorney has an extremely busy schedule, and if he is not in court, he is usually with a client. However, your case is important to him as well as you. If you need to talk with him, he will try to get back with you as soon as possible. You can also send an e-mail message to us at rcloon@cloonlegal.com and we will respond quickly (usually quicker than returning phone calls because the attorney can read and respond to emails at night and on weekends).

What if I have a non-bankruptcy problem/question?

Mr. Cloon handles only bankruptcy. He does know attorneys who are trustworthy and competent in the areas of personal injury, workers compensation, etc. If you need a referral to a qualified attorney, please feel free to call us. We would be happy to help.

In conclusion, we would like to thank you for entrusting your case to us. We hope we have earned, and will continue to earn, that trust. Our biggest source of clients is by referral from our present clients. We hope you will feel comfortable recommending us to your friends and relatives.

(Attached please find disclosures that we are required to give you under the new law. Attachment of these disclosures in no way constitutes an endorsement of the information contained therein.)

Should I Use a Credit Counseling Agency Instead of Filing Bankruptcy?

If your debts are due to circumstances beyond your control, such as medical bills or loss of income, it makes NO sense to consider contacting a credit counseling organization.

However, if your debts are due to financial mismanagement, there are many non-profit credit counseling organizations that will work with you to solve your financial problems.

But be aware that, just because an organization says it's "nonprofit," there's no guarantee that its services are free, affordable, or even legitimate. In fact, some credit counseling organizations charge high fees, which may be hidden, urge consumers to make "voluntary" contributions that can cause more debt, urge consumers to enter "debt repayment plans" they simply cannot afford.

Most credit counselors offer services through local offices, the Internet, or on the telephone. In our area, the main provider is Housing and Consumer Credit Counseling, which has offices in Lawrence and Topeka.

Reputable credit counseling organizations can advise you on managing your money and debts, help you develop a budget to pay back your debts (if the creditors voluntarily agree), and offer educational materials and workshops. Their counselors are certified and trained in the areas of consumer credit, money and debt management, and budgeting. Legitimate counselors will discuss your entire financial situation with you, and help you develop a personalized plan to solve your money problems. An initial counseling session typically lasts an hour, with an offer of follow-up sessions.

If your financial problems stem from too much debt or your inability to repay your debts, a credit counseling agency may recommend that you enroll in what is known as a "debt management plan" or "DMP". A DMP alone is not credit counseling, and DMPs are not for everyone. You should sign up for one of these plans only after a certified credit counselor has spent time thoroughly reviewing your financial situation, has offered you customized advice on managing your money, and has analyzed your budget to make sure that the proposed DMP is one you can afford. However, remember that all organizations that promote DMPs fund themselves in part through kickbacks from the creditors involved, which are called "fair share", so you have to be wary as to whose best interest the counselor has in mind. Even if a DMP is not appropriate for you, a reputable credit counseling organization still can help you create a budget and teach you money management skills.

In a DMP, you deposit money each month with the credit counseling organization, which uses your deposits to pay your unsecured debts, like your credit card bills and medical bills, according to a payment schedule the counselor develops with your creditors. Your creditors may agree to lower your interest rates or waive certain fees, but it's always best to check with all your creditors, just to make sure they offer the concessions that a credit counseling organization is promising you. A successful DMP requires you to make regular, timely payments, and could take 48 months or more to complete. Ask the credit counselor to estimate how long it will take for you to complete the plan. You may have to agree not to apply for – or use – any additional credit while you're participating in the plan, and a DMP is absolutely useless if your problems stem from or involve your secured creditors holding your car, truck or home as collateral. DMPs are also useless if your problems stem from alimony, child support or overdue taxes. NEVER sign up with an agency that asks you to pay more than a token amount (say, \$50) for their services – the ones that want large fees are usually ripoff artists. If they take a percentage of the debt payment you make to them each month, add up the total

of their percentage to find out the true fee, which can run thousands of dollars.

The bottom line is this: If all you need is a little lowering of your interest rates on some unsecured debts, a DMP might be the answer. However, if what you really need is to reduce the amount of your debt, bankruptcy may be the only solution.

A FINAL NOTE

Thanks for taking the time to read all of this. I hope it makes the picture a little clearer. Of course, you probably still have plenty of questions - most people do. We will discuss those, and I will try to answer them as best I can at your free consultation. I look forward to trying to help you and your family recover financial dignity, and get on with your lives without the stress and fear of debt hanging over your head. I have been doing this for over 17 years, and have filed thousands of cases. It is all I do. It is my mission to make bankruptcy affordable and understandable for everyone. I look forward to meeting and working with you.

Sincerely,

Russ Cloon

MANDATORY DISCLOSURES REQUIRED BY FEDERAL LAW

Notice No. 1

The Bankruptcy Code, 11 U.S.C. § 101(3) defines "assisted person" to mean any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than \$150,000.

All information that an assisted person is required to provide with a petition and thereafter during a case under the Bankruptcy Code is required to be complete, accurate, and truthful.

All assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value.

Current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of the Bankruptcy Code, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry.

Information that an assisted person provides during their case may be audited pursuant to the Bankruptcy Code, and failure to provide such information may result in dismissal of the case under the Bankruptcy Code or other sanction, including a criminal sanction.

A person who knowingly and fraudulently conceals assets or makes a false oath in connection with a case under the Bankruptcy Code shall be subject to fine, imprisonment, or both.

All information supplied by a debtor in connection with a case under the Bankruptcy Code is subject to examination by the Attorney General of the United States.

Credit counseling agencies provide services that include an analysis of a client's current financial condition, factors that caused such financial condition, and how a client can develop a plan to respond to the problems without incurring negative amortization of debt.

Notice No. 2

Notice Mandated By Section 527(a)(2) Of The Bankruptcy Code

Notice of Mandatory Disclosure to Consumers Who Contemplate Filing Bankruptcy

You are notified as follows:

1. All information that you are required to provide with the filing of your case and thereafter, while your case is pending, must be complete, accurate and truthful.
2. All your assets and all your liabilities must be completely and accurately disclosed in the documents filed to commence your case.
3. Some places in the bankruptcy code require you to determine and list the replacement value of an asset, as for instance a car, or furniture. When replacement value is required, it means the replacement value, established after reasonable inquiry, as of the date of the filing of your bankruptcy case, without deduction for costs of sale or marketing. With respect to property acquired for personal, family or household purposes, replacement value means the price a retail merchant would charge for “used” property of that kind considering the age and condition of the property.
4. Before your case can be filed, it is subject to what is called “Means Testing”. The Means Test was designed to determine whether or not you qualify to file a case under chapter 7 of the Bankruptcy Code, and if not, how much you need to pay your unsecured creditors in a chapter 13 case. For purposes of means test, you must state, after reasonable inquiry, your total current monthly income, the amount of all expenses as specified and allowed pursuant to section 707(b)(2) of the bankruptcy code, and if the plan is to file you in a Chapter 13 case, you must state, again after reasonable inquiry, your disposable income, as that term is defined.
5. Information that you provide during your case may be audited pursuant to the provisions of the Bankruptcy Code. Your failure to provide complete, accurate and truthful information may result in the dismissal of your case or other sanctions, including criminal sanctions.

Please Note: Both this Notice and the following Notice are required by legislation adopted by Congress in 2005, after intense lobbying by the credit industry. In our opinion, these notices are designed to intimidate people who need debt relief and these notices are based on the false assumption that all people are dishonest. Please rest assured So long as you are honest and meet the requirements set out under the law, you are entitled to debt relief. We can guide you through all the requirements of filing bankruptcy, so long as you provide us accurate and complete information.

Notice No. 3

Notice Mandated By Section 527(b) of the Bankruptcy Code

Important Information About Bankruptcy Assistance Services

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. **THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST.** Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts. It may not be in your best interest to reaffirm a debt.

If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which, if held, will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief. However, please be advised that in most cases, you will only be concerned with chapter 7 and chapter 13.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.

Notice No. 4

Notice Mandated By Section 342(b)(2) Of The Bankruptcy Code

Fraud and Concealment Prohibited

If you decide to file bankruptcy, it is important that you understand the following:

1. Some or all of the information you provide in connection with your bankruptcy will be filed with the bankruptcy court on forms or documents that you will be required to sign and declare as true under penalty of perjury.
2. A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both.
3. All information you provide in connection with your bankruptcy case is subject to examination by the Attorney General.