

1. Bankruptcy in Brief

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Will a previous bankruptcy filing prevent me from filing today?

It depends on

- what chapter you wish to file now

- what chapter you filed before

- whether you received a discharge in the earlier case

You can only get a Chapter 7 discharge if a previous Chapter 7 case was *filed* more than 8 years ago. This is a change from the previous period of 6 years.

If you got a Chapter 13 discharge within 6 years, the Chapter 13 plan has to meet certain repayment requirements to permit a Chapter 7 case earlier than 6 years from the filing of the prior case.

If your previous case was previously dismissed before discharge, it does not count in these considerations.

You can file a Chapter 13 case after a Chapter 7 without any statutory time restrictions. However, under the newly amended Code, you can only get a *discharge* in that Chapter 13 case if the 7, 11, or 12 previous case was filed more than 4 years ago; if the previous case was also a Chapter 13, two years must elapse between filings. Some courts, however, question the debtor's good faith, a necessary element for filing a Chapter 13 plan, if they have recently filed Chapter 7 and received a discharge.

You can freely convert a pending case from one chapter to another. It is the same case, even though the chapter is different, so these time considerations don't apply. Generally, you can only convert a Chapter 7 to Chapter 13 before the discharge is entered.