

# BANKRUPTCY

## Small Business Reorganization Act Overview

If your company's debts do not exceed \$2,725,625<sup>1</sup>, you may qualify for the small business reorganization option under chapter 11. Under this filing, a trustee is automatically appointed, but you retain control of your company's assets and operations.

Upon filing, your company will be protected by the automatic stay and the company will be relieved from making scheduled principal payments on debt to secured and unsecured creditors.

You may spread out repayment of the company's debts over a three to five-year plan. This should give your company time to recover from financial hardship. The company must devote future disposable income to repaying its creditors. The plan may include administrative expenses instead of requiring those expenses to be paid all at once. In many cases, this model benefits both the company (by allowing it to spread payments over time) and creditors (by allowing them a meaningful recovery from a company who may not have much money on hand but have a realistic expectation of income over time).

Depending on whether the plan was approved with or without creditor consent, the company will receive a discharge either, when the plan is confirmed by the bankruptcy court, or when the company has completed the plan.

### ADVANTAGES:

- Fast moving with shortened deadlines
- Reduce legal and other restructuring expenses
- Creditors do not have to approve the plan
- Administrative expenses can be paid over the duration of the plan
- Allows company to responsibly pause its obligations for long enough to negotiate with lenders, landlords and other creditors
- Your creditors cannot force you into a chapter 13 bankruptcy, unlike chapter 11

### DISADVANTAGES:

- Fast moving with shortened deadlines, this is especially problematic if the company's financial statements are in disarray
- All projected disposable income must go to pay creditors
- You cannot incur any significant new debt without consulting the chapter 13 trustee

<sup>1</sup> On March 27, 2020, Congress increased the cap to \$7,500,000 for the next year as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

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