Glossary of Terms Related to Bankruptcy

Asset: Something of value that you possess and that can be valued in cash.

APR: Annual percentage rate. This is the interest percentage you are charged each year to borrow money.

Automatic stay: Stops creditors from taking any action to collect on debts or to enforce such debts against your property. Exceptions, does not stop, among other things, criminal proceedings, enforcement of a pre-bankruptcy order for eviction, or orders to collect debts such as alimony, maintenance, or child support

Bankruptcy: A legal proceeding filed in the United State Bankruptcy Court (a federal, not a state court) that permits a person to obtain a discharge of his or her obligation to pay certain debts. The bankruptcy laws are intended to allow an honest, but unfortunate debtor to obtain a “fresh start.” The debtor in a Chapter 7 case must surrender any asset that is not exempt property to a bankruptcy trustee, who liquidates the non-exempt property in order to make payments to creditors.

Bankruptcy petition: A legal pleading filed in the US Bankruptcy Court in which a debtor declares bankruptcy and sets in motion the legal proceedings necessary to obtain a discharge of debts. The bankruptcy petition is accompanied by a number of other papers and schedules submitted under penalty of perjury in which the debtor makes a full public disclosure of all the debtor’s debts and assets.

Bankruptcy trustee: The person who has been appointed by the US Trustee (a representative of the US Department of Justice) to take control of the debtor’s non-exempt property during the course of the bankruptcy proceedings. Protecting the interest of the creditors is the bankruptcy trustee’s responsibility.

Chapter 7 bankruptcy: A Chapter 7 bankruptcy is a case in which a bankruptcy trustee is appointed to liquidate any assets of the debtor that are not exempt property for the purpose of making payment to creditors. For that reason, a Chapter 7 case is often referred to as a “straight bankruptcy” or a “liquidation case.”

Chapter 13 bankruptcy: A Chapter 13 bankruptcy is a case in which the debtor with regular income proposes a plan to repay some or all debt over three to five years. For that reason, a Chapter 13 case is sometimes referred to as a “wage earner plan.” The Chapter 13 trustee does not take possession of the debtor’s non-exempt property, but supervises the case and administers the payments to creditors under the Chapter 13 plan.

Collateral: Properties or assets that are offered to secure a loan or other credit. Collateral becomes subject to seizure on default.

Debt Management Plan (DMP):	A DMP is a systematic way to pay down your outstanding debt through monthly deposits to an agency, which then distributes these funds to your creditors. By participating in this program, you may benefit from reduced or waived finance charges and fewer collection calls.
Debtor:	A person who legally owes money to someone or some entity.
Deductions:	Any money taken out of your income before you receive it. These can be mandatory, such as federal or state withholding taxes, Social Security, Medicare, child support or spousal maintenance (alimony), or voluntary, such as retirement contributions, union dues, savings deposits, or investments.
Deductible:	The amount you have to pay for a loss before your insurance company pays the remaining amount of the loss.
Discharge:	A court order that precludes a creditor from taking any action to collect a debt. A debtor does not need to repay a debt that has been discharged. Some debts (known as "non-dischargeable debts"), however, are not discharged and must be paid after the bankruptcy.
Exempt property:	In a Chapter 7 bankruptcy, exempt property is the debtor's property protected by law that cannot be seized or liquidated to pay back debt. Depending upon the state in which you file and the circumstances of your case, you may have the options to claim exemptions under federal or state laws, or may be restricted to state laws
Fixed monthly expenses:	Expenses that are approximately the same every month and that are fairly predictable. These would include mortgage or rent payments, utility payments, loan payments, etc.
Foreclosure:	When the bank sells your home because you failed to make your mortgage payments on time.
Garnishment:	When the government or a judgment creditor takes money out of your paycheck before you are paid to pay back a debt you owe or some other type of legal obligation (such as court-ordered child support). Your employer must honor the garnishment and send a check directly to the government or creditor before paying you the remainder of your wages.
Gross income:	Your total income, either weekly, monthly, or annually. This is the total amount of your income before any deductions are taken out.
Gross value:	The total, positive value of something before you reduce it by the amount owed on that item.
Home equity:	This is the difference between how much your home is worth on the market and how much you owe to a lender. Example if you have an $80,000 mortgage and your home is worth $100,000, then you have $20,000 equity. If you were to sell your home, you would receive $100,000, pay back the $80,000 you owe, and keep the $20,000 in profit—your equity. It is one of your assets.

Home equity line of credit:	A home equity line of credit is a type of home equity loan in the form of revolving credit in which your home serves as collateral. With a home equity line, the lender will approve a specific amount of credit. This is your credit limit, and it is the maximum amount you may borrow at any one time under the plan. Interest rates are usually variable, interest is usually tax deductible, and your monthly payments usually vary depending upon how much of your credit line you have borrowed and what the current interest rate is. There may also be significant penalties if you close the credit line in less than one or two years.
Individual Retirement Account (IRA):	Every taxpayer in the United States can start an IRA. An IRAS is a retirement investing tool. There are several types of IRAs: Traditional IRAs, SIMPLE IRAs, and SEP IRAs. Many types of accounts can be designated as IRAs, including savings accounts, mutual funds, certificates of deposit, money market funds, and others. Depending on the type of IRA, taxes are either deferred or reduced on all the money earned in those accounts. This offers a major tax benefit to the individual for retirement.
Levy:	To take property upon a court ordered writ of execution to pay a money judgment that was granted in a lawsuit. A sheriff or other official makes the levy at the judgment holder's request. The property will then be sold at a sheriff's sale in order to provide the money to satisfy the unpaid judgment.
Liability:	A debt you owe or any other financial obligation
Liquidity:	The ease with which something can be converted to cash. Example: Cash is perfectly liquid, and a home is not very liquid meaning it is not easily or quickly turned into cash.
Means test:	If you are filing a Ch. 7 bankruptcy, this is a test your attorney will apply to your situation to determine if you qualify or if you must file under a Ch. 13. The means test was adopted by Congress in the Bankruptcy Abuse prevention and Consumer Protection Act of 2005 and is intended to measure your ability to pay back a portion of your debts.
Median income:	The median is the middle of a distribution: half the scores are above the median and half are below the median. Therefore, a median income is the income among a certain population which lies at the halfway point of all the income in that population.
Net income:	Your weekly, monthly, or annual income after deductions are taken out.
Net value:	The gross value minus any amount owed on that item. The net value of you car is the "blue book" value of that car minus the amount of any loans on the car.

Non-exempt property:	Property you own that can legally be sold by the bankruptcy trustee to obtain cash to help repay your debts.
Periodic expenses:	Non-monthly expenses that occur at varying times and varying amounts throughout the year. Examples: car repairs, medical bills, and auto tags.
Predatory lending:	In the strictest and legal sense of the word, predatory lending refers to secured loans such as home or car loans that are made by the lender with the intention that the borrower can't really pay them, the lender can seize the car or home and sell it for a profit. The word has been expanded to refer to the practice of convincing borrowers to agree to unfair and abusive loan terms. This could be done either through outright deception or through aggressive sales tactics, taking advantage of borrowers' lack of understanding of extremely complicated transactions. Predatory loans for the purchase of a home, for instance, could lead to foreclosure.
Priority debt:	The right to be first, or to be ahead of others' rights or claims. In bankruptcy law, taxing authorities, judgment holders, secured creditors, bankruptcy trustees, and attorneys and certain other creditors have the right to be paid before other creditors.
Reaffirmation:	A reaffirmation is a voluntary agreement, between a debtor and a creditor, that the debtor will pay all or a portion of an otherwise dischargeable debt after the debtor has filed bankruptcy. To be valid, the agreement must be made before a discharge is granted and must satisfy a number of other technical and disclosure requirements. Unless the reaffirmation agreement is supported by an affidavit from your attorney, it must be approved by the Bankruptcy Judge. The debtor has the right to rescind a reaffirmation agreement any time prior to discharge or within 60 days after it is filed with the Court (whichever is later).
Secured debt:	Debt back or secured by collateral to reduce the risk associated with lending. Example: A mortgage; your house is consider collateral towards the debt.
Universal default:	Universal default allows other credit card issuers to raise the cardholder's interest rates on other accounts, even if those other accounts are not in default.
Unsecured debts:	Debts with no collateral. A creditor has no legal right to take your property if it is not specifically listed as collateral on a loan.
Variable expenses:	Monthly expenses over which you exercise the greatest control and that vary base upon your behavior. Example: Entertainment expenses.
Vested:	This normally applies to an amount in a company retirement plan that is yours permanently even if you leave the company. If you are not yet "vest," and you leave the company, the non-vested funds are returned to the company.
341 meeting of the creditors:	You must appear and testify, under penalty of perjury. The Trustee and any of your creditors who choose to attend may ask you questions under oath about anything related to your assets. Tax return copies must be provided before the meeting of the creditors

** Thanks to the National Foundation for Credit Counseling and their book, *More Than One Way Out*, for most of these definitions.