The Newsletter
FAUCHER LAW
TAX & BANKRUPTCY

Are you a Consumer or a Non-Consumer Debtor?

Why it Matters in a Chapter 7 Bankruptcy

Consumer debtors need to meet the Means Test, an income threshold of about $75,000 (for a single person) that cannot be exceeded to qualify for a chapter 7 bankruptcy. On the other hand, non-consumer debtors don't need to meet the Means Test: their income can exceed $75,000 (or $100,000 for a married couple) and they can still file chapter 7. But the consumer debtor making more than $75,000 must find a different solution, like a chapter 13 bankruptcy. So what?

In chapter 7 bankruptcy, all debts are fully and immediately erased. But a chapter 13 is primarily a debt repayment plan: the debtor makes monthly payments in the amount of the excess of their monthly income over monthly expenses, as determined by law and the Bankruptcy Trustee. The Bankruptcy Trustee uses the payments to repay the debtor's creditors. At the end of 3-5 years, any remaining debt(s) is discharged. Most everyone prefers a chapter 7 to be free of their debts without going through years of repayment first. Chapter 13's are also more invasive, with the Bankruptcy Court constantly scrutinizing debtors' income and expenses. Indeed, fewer than half of chapter 13's are completed. Changing financial circumstances and the challenge of monthly payments causes many debtors to fall out of their plan before it's completed.

Consumer Debt. Congress established the Means Test in 2005 to ensure high-earners don't "abuse" bankruptcy by erasing debts in a chapter 7, when they could repay at least some of their debts in a chapter 13. However, the Means Test applies only if 50 percent or more of a debtor's total debt is consumer debt: (1) credit card debt NOT incurred for a business, (2) medical bills, (3) almost all student loans, (4) mortgages for personal property (as opposed to investment or income-producing property), (5) car notes and any other personal payday or other loans.

Non-Consumer Debt is (1) business loans including business-related credit card debt, (2) tax debt, and (3) certain legal judgements and lawsuit awards (child support and alimony are consumer debt and not dischargeable). This means that a high-earning entrepreneur who owes millions to business creditors can file a chapter 7 bankruptcy and walk away without paying a cent to creditors, while a high-earning corporate officer who owes $100,000 on credit cards and has a mortgage will need to submit to a five-year chapter 13 payment plan. Hey, I didn't write the law - complain to Congress if you don't like this.

We're waiting. Call us.
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Some Expenses Deducted from Income. If a debtor's monthly income is less than the California median income for a household of their size, in the 6 months prior to filing bankruptcy (currently about $75,000 for a single, $95,000 for a couple and $120,000 for a family of 4), then they will pass the means test. If a debtor's monthly income is over the median but has been declining, then waiting a few months to file bankruptcy often brings the debtor under the median. That's why bankruptcy planning is important: someone may not qualify today but could next month.

But wait! Debtors filing Chapter 7 can deduct some expenses from income: (1) fees like mandatory union dues and retirement contributions; (2) health insurance; (3) income taxes; (4) childcare; (5) life insurance premiums; (6) mortgage & car payments; and (7) alimony & child support. Thus, a single person earning $100,000 may fall under the Means Test threshold of $75,000 once the allowable expenses are deducted from their income. In short, the means test is a complex formula, rather than a single income number. Make sure your attorney knows the intricacies of the means test and how it applies to your financial situation. Or call me.

JDF

INSIDE STORIES

- Sebastian's Origin Story & Comic
- Lemon Chicken Recipe

Sebastian the Feline Paralegal's Origin Story

Not every attorney is lucky enough to have a great paralegal. Few are so lucky that their paralegal is both an excellent employee and a cat. A very photogenic cat. With his own cartoon and Instagram account (sebastian.the.feline.paralegal). How on earth did I, a tax and bankruptcy lawyer (boring), come to have such a prominent cat (quirky)?

My family has fostered felines for the Agoura Hills animal shelter for 20 years. Sebastian came into the shelter system as a 1-year-old, sick stray in 2018, and then to our house to get better. (Since illness spreads quickly in animal shelters, young and sick animals are "fostered" in the homes of volunteers until they are sufficiently healthy or old enough to be adopted).
Sebastian hadn't been taught not to play-bite or play-scratch people (we know nothing about his former humans), but we worked with him, and Sebastian gradually became more socialized. After a few months, he was ready to find his forever home and was brought Sebastian back to the shelter for adoption. Sebastian had other ideas.

The shelter called Karen a few days

after Sebastian returned.Sebastian had been wildly hissing and clawing at all other people and animals since she'd dropped him off. They thought he was feral and asked us to take him back for more socialization. Feral? Not Sebastian! Sure, he was a bit "spicy," but we've fostered feral cats, and Sebastian was not feral. When Karen fetched Sebastian from the shelter, the staff were amazed Sebastian let her pick him up. Without oven mitts. Once home, Sebastian walked in like he owned the place. Wait! Were we duped? Manipulated? By a cat? Sebastian obviously adopted us before we knew we were adopting him.

Once home, Sebastian started

showing up regularly in Faucher Law's home office, from which I work most days. Sebastain was very interested in the computers. Then the printers. And scanner. He liked tinkering with them, and then settling on them for a cat-nap. Then Sebastian started giving me advice, usually unsolicited. And helping with small projects, such as shredding papers, which led to bigger tasks, such as ensuring no paperclips

remained on the tops of desks. I finally

made it official: Sebastian is a Faucher Law paralegal. He gives great "tough love" advice on tax and bankruptcy matters (all vetted by me , of course). And, this year, to balance the Faucher Law accounts on its annual tax return, my accountant included a $433 loan from Sebastian to the firm (thanks, Doug!). The place obviously couldn't function without Sebastian. After long days in the office, Sebastian loves sitting on Karen's lap, listening to Springsteen, or watching junk reality television to decompress.

Lemon Chicken with Mushrooms & Peas

Karen "cooked" this up decades ago and it remains a family favorite because it's quick and tasty. It also freezes well, so we double the recipe and put half in the freezer for those days when no one cooks.

2 lbs boneless, skinless chicken breast, cut into ¾ inch cubes	½ cup white wine
1/2 cup olive oil	8-12 ozs white or crimini brown mushrooms, thinly sliced
½ - 1 regular-sized bag frozen peas (depending on how much you like peas)	6-8 scallions, thinly sliced, all white & green parts
1 TBS freshly chopped rosemary	1/2 TBS fresh thyme
Zest & juice of 1 lemon; additional 1/2 cup lemon juice, fresh or bottled	1/3 cup chicken broth
1 tsp salt; ½ tsp fresh ground black pepper	½ bunch fresh parsley, chopped fine

Instructions:

• In large skillet, heat olive oil over medium heat until sizzling and add mushrooms, cooking for 5 minutes. Add scallions, cooking and stirring occasionally for 5-7 minutes more, until mixture is thoroughly softened.

• Add lemon juice, wine, and chicken broth to mushroom mixture and heat for 2-3 minutes until on low boil. Add chicken breast cubes, parsley, thyme and rosemary, salt and pepper; reduce heat to medium low and cook for 8-10 minutes until chicken is cooked through, stirring occasionally.

• Add frozen peas and cook another 3-4 minutes until are peas heated. Serve over rice.

Serves 4-6

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WELCOME TO FAUCHER LAW

John D. Faucher worked for 10 years as an IRS trial attorney and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy systems** and can help you get the best result. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends, or family.

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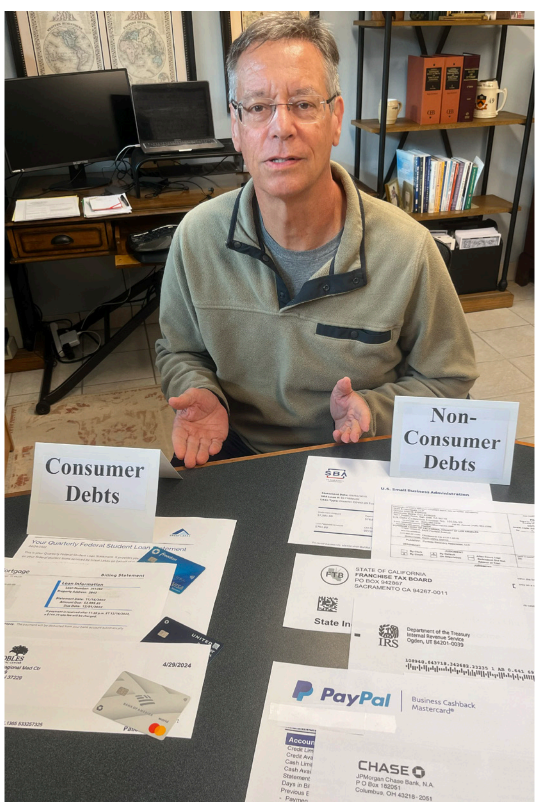
"Consumer" versus "Non-Consumer" Debtors:
Income Limits Apply to Many Debtors in Ch. 7 Bankruptcy



There are two kinds of debtors in a chapter 7 bankruptcy. Consumer debt consists primarily of credit cards, personal loans, medical debt, student loans, and mortgage and car notes. In contract, non-consumer consists of business loans and credit cards, tax debt and legal judgments. Consumer debtors must meet a "means test" (for instance, a single person in California must earn less than $75,000 annually) to qualify for a chapter 7, whereas there is no income limit for non-consumer debtors. This edition of ***The Newsletter*** explains this peculiar difference. Also inside, Sebastian the Feline Paralegal's origin story, a comic prelude to Sebastian's summer travel plans, and a lemon chicken recipe came up with years ago and still makes.