

Bankruptcy Means Testing in Georgia

In order to determine your eligibility to file bankruptcy, and determine which bankruptcy chapter is appropriate for your situation, potential bankruptcy filers must pass a "means test". The Means Test is a formal process that is applicable to both Chapter 7 and Chapter 13 cases.

The essential purpose of the Means Test is to separate filers that cannot repay their debts (Chapter 7) from those persons that can repay their debt (Chapter 13). A Chapter 7 bankruptcy will relieve the filer from any further debt repayment obligations for approved debt. A Chapter 13 bankruptcy generates a repayment plan that requires the filer to pay their debts off in a three or five year plan.

What is the Means Test?

The Means Test is a two-part process that you will complete with the guidance of your bankruptcy attorney. The first part of the process includes:

- 1) Determining gross income for the past six months for the individual filer or for both persons if you are married. You will need to verify your income with documents including pay stubs and/or written proof of any other type of income. The total gross income is then averaged out to determine your "median income".
- 2) Your defined median income will then be compared to a formal "[median income table](#)" provided by the U.S. Department of Justice. In the State of Georgia the current median income table is:

The Georgia Median Income Table (as of Nov 2010)

Family of 1 \$38,748

Family of 2 \$51,184

Family of 3 \$55,767

Family of 4 \$68,122

*add \$7,500 for each additional member of your household.

The results of this comparison test will identify which bankruptcy chapter is appropriate for your situation. If your median income for your family size is below the median income table amount for your family size then you qualify for a Chapter 7 bankruptcy.

If your median income is higher than the appropriate amount on the median income table, we will need to complete a detailed analysis to evaluate your true potential for managing a Chapter 13 bankruptcy. The detailed analysis considers your living expenses using guidelines set forth by the IRS. This means that your actual living expenses are ignored, and the IRS figures are used to assess living expenses. The results of this analysis can lead to different outcomes including:

- 1) You do qualify for a Chapter 7 bankruptcy despite your median income exceeding the guideline amount because an examination of your living expenses indicates that your month end funds, after paying living expenses, would be less than \$100.00.
- 2) You might qualify for a Chapter 7 bankruptcy despite your median income exceeding the guideline amount because an examination of your living expenses indicates that your month end funds, after paying living expenses, would be between \$100.00 and \$166.67. This is the gray area where it can be argued that you do not have enough "surplus income" to manage any effective repayment plan. This result is not a guarantee of a Chapter 7 qualification. As your attorney we will have to fight for it. If you are required to file Chapter 13 bankruptcy you will have a repayment plan.
- 3) You must file for a Chapter 13 bankruptcy despite your median income exceeding the guideline amount because an examination of your living expenses indicates that your month end funds, after paying living expenses, would be over \$166.67. You will have a 3 or 5 year repayment plan.

Means Test Calculator

For a quick run at your Means Test you can visit the Legal Consumer website and use their [Georgia Means Test Calculator](#). This will give you a good idea of what to expect however, with variances in how a situation may be assessed, it is in your best interest to schedule an appointment with our [bankruptcy attorney](#) who handle bankruptcy filings in Cobb, Cherokee, Fulton and Paulding counties.

Although you can file for bankruptcy without an attorney, you are extremely likely to make mistakes in the process. Some mistakes may actually be construed as a crime. If you are considering filing for bankruptcy in Georgia we strongly urge you to take advantage of the offer for a [FREE CONSULTATION](#) with a bankruptcy attorney in Atlanta, Georgia.

For more information on [Filing for Bankruptcy in Georgia](#) you may call the law office of:

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[Google Map & Directions](#)