

## CREDIT COUNSELING AND DEBTOR EDUCATION REQUIREMENTS

If you are an individual debtor in a chapter 7 or 13 case [or in a chapter 11 case in which section 1141(d)(3) applies], you **must obtain credit counseling and debtor education**. In a joint case, each joint debtor must complete credit counseling and debtor education.

### **Before filing for bankruptcy (1<sup>st</sup> course)**

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Prior to commencing a bankruptcy case, **all** individual debtors-filing under *any* of the Bankruptcy Code chapters that are available to individuals (*i.e.*, chapter 7, 11, 12 or 13)-**must undergo credit counseling** from a credit counseling service that the United States Trustee has approved for this judicial district (Southern District of New York). To view a list of approved **credit counseling agencies**, go to <https://www.justice.gov/ust/list-credit-counseling-agencies-approved-pursuant-11-usc-111>.

**After credit counseling is completed**, the course provider will mail or email a certificate of completion to the debtor.

- **When to File Certificate of Credit Counseling:** Depending on how the debtor completes Part 5, the debtor must file-either at the time of case filing *or* within 14 days from the date of case filing-the certificate that was provided by the credit counseling service along with any repayment plan developed as part of credit counseling.
  
- **Request Extension or Waiver:** A debtor who has not undergone credit counseling *prior to filing the petition* may request to have the court grant a **30-day extension** to receive credit counseling and file the certificate.

As noted on **Part 5 of the Voluntary Petition for Individuals Filing for Bankruptcy**, a debtor **requesting the extension** must so indicate in the appropriate section of Part 5 and attach a separate sheet explaining what efforts the debtor made to obtain the briefing, why the debtor was unable to obtain it before the filing and what exigent circumstances required the debtor to file the case. Additionally, as noted in **Part 5, there are strict requirements for obtaining this extension**, and anyone thinking of making this request should first **read Part 5 very carefully**.

Additionally, *at the time of filing the petition*, certain debtors may **request to be waived of the credit counseling requirement based on having an incapacity or disability or being engaged in active military duty in a combat zone** (*see Part 5*, which provides definitions for "incapacity" and "disability"). A debtor seeking the waiver must so indicate when completing **Part 5** and must also file a **separate written request**. The court's website, [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov), has a form for use in making the separate written request for the waiver.

- **Consequences/or Failing to Comply with this Requirement:** Your case may be subject to dismissal; in which event you will be unable to obtain bankruptcy relief by means of the case that you filed.

## **After filing for bankruptcy (2<sup>nd</sup> course)**

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After commencing the bankruptcy case, individual debtors in a chapter 7 or 13 case [or in a chapter 11 case in which section 1141(d)(3) applies] **must fulfill a debtor education requirement by taking a course in personal financial management** by a course provider that the United States Trustee has approved for this judicial district (Southern District of New York). To view a list of approved **debtor education providers**, go to <https://www.justice.gov/ust/list-approved-providers-personal-financial-management-instructional-courses-debtor-education>.

**After completing the course in personal financial management**, the course provider will either directly file the Certificate of Debtor Education with the Court or send you (the debtor) the certificate to file with the Court.

- **When to File Certificate of Debtor Education:**

**Chapter 7:** File a certificate within **60** days after the first date set for the§ 341(a) meeting of creditors.

**Chapter 11 or 13:** File a certificate no later than the last payment made by the debtor as required by the plan or the filing of a motion for entry of a discharge under§ 1141(d)(S)(B) or§ 1328(b) of the Code.

- **Request Extension or Waiver:** Those debtors seeking an extension of time to file a certificate of debtor education must make their request to the judge **before** the expiration of the applicable deadline. Those seeking a waiver based on incapacity, disability or active military duty in a combat zone must file a motion with the court and obtain a court order.
- **Consequences/or Failing to Comply with this Requirement:** Your case may be closed without entry of a discharge. To file a certificate after the case is already closed, you will need to reopen the case and pay the case reopening fee.