

Bankruptcy Does Not Have to Put Security Clearance at Risk

By Mathew B. TullyQ.

I am swimming in debt, and it looks like filing for bankruptcy is my best option. As far as my security clearance goes, does it matter if I file for Chapter 7 or Chapter 13?A.

Financial problems are bound to raise red flags for security clearance investigators. They could result in the issuance of a Statement of Reasons/Letter of Intent, in which the government explains why it wants to deny or revoke your security clearance. But large amounts of debt alone may not determine whether you keep or lose your clearance. Much depends on the circumstances that resulted in the indebtedness and what you have done about it. First, if you receive an SOR from a Department of Defense Central Adjudication Authority, you should respond immediately. If you cannot mitigate the problems raised and receive a Letter of Notification of Revocation or Letter to Revoke, then you may request a personal appearance hearing at the Defense Office of Hearings and Appeals. A judge makes a recommended decision that goes to your service's personnel security appeal board. The boards make the final decision on whether to issue a clearance; they are not bound by the Defense Office of Hearings and Appeals decision. If the debt problems can be explained by your or a family member's illness, job loss, divorce, death in the family, or other such factors, make sure the judge is made aware of these issues. If the SOR/LOI overstated the amount of money owed, provide the correct information. Whatever evidence you can present that shows your willingness to pay the debt should go a long way. Under these circumstances, filing for Chapter 13 would be the preferred type of bankruptcy because it establishes a court-approved payment plan under which the debtor pays creditors most of what they are owed over three to five years. In contrast, with Chapter 7, creditors are paid a fraction of what they are owed through the liquidation of the debtor's assets. But either bankruptcy is a legitimate method of resolving debt. Of course, the preferred way to address financial problems, as far as retaining a security clearance goes, is to try to pay off the debt. If you have negotiated a repayment plan with a creditor, be certain to get that agreement in writing and show it to the administrative judge. Proof of payment is important: copies of canceled checks (front and back), a statement showing a zero balance or progress on reducing the debt, or a letter from the creditor. Remember, you can have debt - even delinquent debt - and keep your security clearance. What is critical: Have you made a "good faith" effort to resolve that debt? Service members who have received an SOR/LOI due to financial concerns should immediately contact a security clearance representation attorney. Depending on the circumstances, a lawyer can help prove that circumstances outside your control resulted in the financial problems and that you have paid off, or will pay off, the debts.