

Chapter 2 Test Bank

1. The Bankruptcy Code is found in _____.
 - a. Title 7.
 - *b. Title 11.
 - c. Title 13.
 - d. Title 21.

2. Student loans are an example of secured debt because the debt is attached to the degree received.
 - a. True.
 - *b. False.

3. Important definitions under the Code can be found in Section 101.
 - *a. True.
 - b. False.

4. The *Milavetz* ruling is that:
 - a. the First Amendment prohibits advertising under a “federal repayment plan.”
 - *b. the requirements of debt relief agencies under BAPCPA are not a violation of the First Amendment, and bankruptcy attorneys and law firms are debt relief agencies.
 - c. §528(a)(4) violates the First Amendment.
 - d. defines “attorney” under the Code in Section §101(12A).

5. Because law firms compensate paralegals, paralegals are considered petition preparers under Section 101 of the Code.
 - a. True.
 - *b. False.

6. Due to legal training, a petition preparer can give legal advice to an assisted person.
 - a. True, but only to licensed paralegals with more than ten years of experience.
 - *b. False.

7. Since alimony isn’t required in every case, unlike child support, alimony can be discharged in bankruptcy.
 - a. True.
 - *b. False.

8. If you paid back a debt owed to your cousin Frank, that could be considered a payment made to an insider under the Code.
 - *a. True.
 - b. False.

9. A car loan is an example of a voluntary lien, so an involuntary lien cannot be placed on the car.
 - a. True.
 - *b. False.

10. Bankruptcy attorneys are required to disclose their fees in a bankruptcy petition.

*a. True.

b. False.

11. The initial hearing for the debtor is known as the 342 Meeting of Creditors.

a. True.

*b. False.

12. Because oral contracts are valid, an attorney and debtor can agree to the fees, costs, and services to be provided verbally.

a. True.

*b. False.

13. Chapter 11 applies only to businesses.

a. True.

*b. False

14. A bankruptcy attorney must provide to the client written notice as well as a description of the different chapters available to consumers.

*a. True under §527.

b. False under §528

c. False. There is no such requirement as a consultation with an attorney is sufficient notice since the attorney would need to review the client's options, including whether or not to file for bankruptcy.

d. True, under §529, to the extent it's requested by the client.

15. Law firms are debt relief agencies.

*a. True.

b. False.

16. A debt relief agency is defined in _____ of the Bankruptcy Code.

*a. §101

b. §152

c. §526

d. §528

17. Because of Albert's arrest for a DUI crash, he lost his job and his house to foreclosure.

Albert qualifies for Chapter 7 because he hasn't earned any income over the last eight months.

Albert wants to include all his credit card debt and \$5,500 in damages to the vehicle he crashed into. Albert should be advised:

a. That he can include his debt related to the house (deficiency judgment).

b. Albert can include his credit card debt.

c. All of the above.

*d. Albert can't include the damages to the vehicle.

18. The financial management class certificate should be filed within:
- a. seven days of the bankruptcy petition being filed.
 - b. Before the *341 Meeting of Creditors* is held.
 - c. Up to forty-five days after the discharge has been entered.
 - *d. Within sixty days of the first scheduled *341 Meeting of Creditors*.
 - e. At least forty-five days before the bankruptcy petition is filed.

Short Essay

1. What are the different Chapters available under the Code for bankruptcy?

Chapters 7, 9, 11, 12, 13, and 15.

2. What is the difference between secured and unsecured debt?

If there is no asset or collateral attached to the debt, then it's unsecured debt, while secured debt is attached to an asset. Credit cards, medical bills, and student loans are examples of unsecured debt. An example of secured debt is a car loan since it is attached or "secured" by the vehicle. If payments cease, the creditor can repossess the car. Unlike unsecured debt, there is no property or collateral for the creditor to take back, so the creditor would have to pursue legal action.

3. What is the significance of the *Milavetz* ruling?

The U.S. Supreme Court ruling in *Milavetz* is that bankruptcy lawyers and law firms are debt relief agencies.

4. What is a *domestic support obligation*?

A *domestic support obligation* is an obligation to pay alimony or child support.

5. What is a *proof of claim*?

A *proof of claim* is notice filed by a creditor that money is owed.

6. Victor was seriously injured in an accident and may never be able to work again. David was at fault. Victor has proceeded to file a personal injury lawsuit against David. Victor wants to know if David can file for bankruptcy if a judgment is issued against him.

The seriousness of the injuries isn't the issue, only if the accident was willful and malicious on behalf of David. If it wasn't, and it was negligence on behalf of David, then the judgment could be eliminated in bankruptcy.

7. Who can file for Chapter 11?

Chapter 11 can apply to both a business or an individual. However, for an individual to file Chapter 11, the debt must exceed the limits imposed by Chapter 13.

8. Define a debt relief agency.

A debt relief agency is a bankruptcy attorney and/or law firm that provides “bankruptcy assistance” to an “assisted person.” A debt relief agency is defined in §101(12A), and in §101(4A), an assisted person is defined.

9. When is a *Retainer Agreement* required to be provided to the client?

Under §528, a written retainer agreement is to be provided to the client within five days of the attorney providing “bankruptcy assistance.”

10. What is the *automatic stay*?

The *automatic stay* prevents state court cases from proceeding upon the filing of a bankruptcy petition.

11. What is the difference between residency and domicile?

Domicile is defined as your permanent residence, while residency is where you currently reside. It’s possible to reside in one state, while being domiciled in another.

12. Why should you not answer a potential client’s questions over the phone or in person?

Ultimately, the decision rests with the law firm on how potential clients are handled, but for one, a paralegal should not provide legal advice, whether by phone or in person because paralegals are prohibited from doing so by law. Also, by phone with a potential client, that individual’s identity is unknown. This could cause a conflict of interest and even result in liability issues for the law firm.