



Declaring Exempt Property Updated October 14, 2021

This packet provides general legal information for those residing in Washington. It is not a substitute for individualized legal advice.

1. When I file for bankruptcy, will I lose everything I own?

The purpose of bankruptcy is to get a fresh start, not start from zero. The Bankruptcy Code recognizes that you need certain property to have a fresh start. That's why the Bankruptcy Code allows you to keep some things that are essential to your daily life. These things are called **exempt property**. Exemptions are **not** automatic; when you file, you will need to make a list of your exempt property and what it's worth. You will list these items on a form called Schedule C, which you can find at https://www.uscourts.gov/sites/default/files/form_b_106c.pdf. If property is not exempt, it can be sold by the bankruptcy trustee to pay back your creditors.

Because exemptions determine which property you will be able to keep when you file bankruptcy, you should get legal advice before filing your case.

2. What items are exempt?

Both the federal government and the state of Washington have detailed property exemption rules. When you file for bankruptcy, you will need to decide which set of rules you want to use. **You will need to choose either the federal rules OR the state rules; you cannot mix and match between the two.** For this reason, it is very important to choose the set of rules that is the most beneficial for your situation. This packet will help you decide which set of rules is better for you.

NOTE: Generally, you can only claim Washington state exemptions if you have lived in Washington for the past two years. There are exceptions to this rule. If you haven't been living in Washington for the past two years, you should consult an attorney to help you decide what set of rules to use.

3. How much of each item is protected?

Both the federal and state rules have dollar or percentage limits for each type of exempted property. This is the amount of your **equity** in the property that is protected. Your equity is how much of the property you have paid off, not necessarily how much it is worth. For instance, if you own a home worth \$200,000 and you have a \$150,000 mortgage on it, you have \$50,000 of equity in your home.

If your equity is worth more than the exemption limit, it may be sold by the trustee and only the exempt amount will be returned to you. In the example above, under the Washington homestead exemption, you are protected up to \$125,000 or more, so you will get to keep your home. On the other hand, the federal homestead exemption only protects up to \$25,150, so under the federal rule, the trustee would sell your house and give you \$25,150 in cash. That is why it is important to choose the correct set of exemption rules for your situation.

4. Should I use the federal or state exemption rules?

The remainder of this packet will help you decide which set of rules is the most advantageous for you. For many people, their most important asset is their home. The Washington exemption list lets you protect a lot of equity in your home, and less of your other property. The federal exemption list, on the other hand, provides less protection for your home but more for other miscellaneous property. **For this reason, as a general rule, homeowners will usually prefer to use the state exemptions and non-homeowners will usually prefer the federal exemptions.** Still, since it's important to protect as much as you can, you should take the time to review the rules and list out your property to make sure this general rule applies to you. Information on the most important rules is provided in the chart on the next page. Here are a few things to keep in mind as you're reviewing the rules and making your list:

- The value of the property is not what you paid for it, but what it is worth now. A ten-year-old car will be worth less this year than it was when you purchased it. It may also be worth less than it would cost to replace it.
- If you still owe money on an exempt piece of property, that debt does not go away. For instance, the exemption rules may allow you to keep your house, but if it is not completely paid off you will need to keep paying your mortgage in order to keep the home.

5. How do I declare my exempt property?

Once you've listed your property and decided which set of rules to use, you have to declare your property as part of your petition using a form called **Schedule C**. You can find a copy of this form at https://www.uscourts.gov/sites/default/files/form_b_106c.pdf. Most of the form consists of the list you made detailing your exempt property:

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
	Copy the value from Schedule A/B	Check only one box for each exemption.	
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____

For each item, you will list the piece of property (i.e. “homestead” or “vehicle”), the amount of equity you have in the item, the amount you’re claiming as exempt, and the specific law that allows you to claim it.