Know Your Options: Subchapter 5 Bankruptcy For Business Owners

Description

Subchapter 5 Bankruptcy:

Introduced in 2019, Subchapter V (or Subchapter 5), provides business owners with a streamlined version of Chapter 11 bankruptcy. This is exclusively for businesses with debts below $2.75 million. The goal of Subchapter 5 is to provide a faster relief process for eligible businesses.

When in financial distress business owners will find themselves grappling with tough decisions. Therefore, if bankruptcy is on the table it is important to understand your options and the difference between Chapter 7, Chapter 11, and Subchapter 5. Having worked with many small businesses with the goal of saving jobs and organizations, we fully understand how stressful this time is, and we want to provide all of the information you may need to be fully informed. As a company with designated Subchapter 5 trustees, we work with small distressed businesses to try to solve issues in this space. Here's what you need to know:

Bankruptcy Options for Small and Medium-sized Businesses

What is Chapter 7 Bankruptcy?

When financial distress becomes insurmountable for a business it may utilize Chapter 7 Bankruptcy. Unlike Chapter 11, which focuses on maintaining business continuity, Chapter 7 involves the liquidation of assets to settle outstanding debts. In this case, a court-appointed trustee takes control of the business's assets to sell, and then distributes the proceeds to creditors. This process is typically straightforward and relatively fast. The end result is often the closure of the business.

What is Chapter 11 Bankruptcy?

Chapter 11 Bankruptcy is for businesses that are in financial distress but seek to continue operations. This option provides a path for business reorganization and financial turnaround. Standard Chapter 11 Bankruptcy is an option for businesses of any size and gives the business owner control of their assets while forming a plan to repay debts. This plan is subject to court approval and is a powerful tool to overcome financial distress while maintaining business operations.

What is Subchapter 5 Bankruptcy?

In 2019 small and medium-sized businesses got a new lifeline: Subchapter 5 Bankruptcy. Created explicitly for smaller businesses, this is a more streamlined version of Chapter 11 bankruptcy. This bankruptcy option also allows a business to maintain operations.

Key Features of Subchapter 5 include:

- **Debts Below $2.75 Million:** A key component of eligibility for Subchapter 5 Bankruptcy is the amount of debt. It focuses on small businesses with debts below $2.75 million with a temporary limit of 7.5 million until March 2024.
- **No Need for Creditor Consent:** Unlike Chapter 11, Subchapter 5 offers a departure from the requirement of obtaining the consent of a class of “impaired” creditors. This change simplifies the reorganization process, due to the limited resources often available to small businesses in distress.
- **Role of Subchapter 5 Trustee:** In a Subchapter 5 bankruptcy, a trustee is appointed to oversee the proceedings. This trustee plays a crucial role in ensuring compliance with the statute. Most importantly, they advise the court on the viability of reorganization. They also assist the business in the entire process.
- **Faster Relief:** The streamlined nature of Subchapter 5 is designed for efficiency. Small businesses can benefit from a faster relief process, thus, allowing them to navigate financial challenges promptly.

Subchapter 5 Trustees at Newpoint Advisors Corporation:

Two senior team members of NewPoint Advisors Corporation, Matthew Brash (Northern District of IL) and Tim Stone (Middle District of TN), are designated as Subchapter 5 trustees. In fact, Tim Stone holds the distinction of being the very first trustee appointed after the creation of Subchapter 5. Our firm holds firm to our commitment to small and medium-sized businesses in financial distress.

Unique Responsibilities of Subchapter 5 Trustees:

- Ensuring compliance with the statute.
- Advising the court as to the viability of the reorganization and assisting in the reorganization process.
- Providing an accounting for all property received by the Debtor.
- Examining and rejecting, if required, any claims against the Debtor.
- Conducting a review of the Debtor’s financial condition and business operations.
- Reporting any fraud or misconduct to the Court.

- Appearing at status conferences and materially significant hearings.
- Preparing a final report of the case for the Bankruptcy Court.
- Assisting as necessary in the facilitation of the Plan.
- Distributing the Debtor's property in accordance with the Plan.
- Confirming the Debtor's adherence to the court-approved Plan during the payment period.
- Valuing the property subject to liens.
- Overseeing the sale of any property of the Debtor sold prior to the confirmation of the Plan or during the payment period provided for under the Plan.

Restructuring and Deferring Bankruptcy

Newpoint Advisors Corporation serves businesses in all types of financial distress. Our financial advisory services are designed to turn around underperforming businesses therefore recovering debt and saving jobs. Proprietary tools like TAME™ (Turnaround Action Matrix Evaluation) help us to guide businesses, and deliver unparalleled value to debtors, stakeholders, and beyond. This framework for identifying and addressing immediate business issues empowers clients through:

1. Educating on Critical Factors: TAME™ enlightens clients on 10 key business factors critical to a turnaround. Thus, fostering a deep understanding of the intricacies involved in financial recovery.

2. Clear Benchmarking: Transparent benchmarking assesses an organization's potential for turnaround or sale.

3. Immediate Threats and Opportunities: Identifies fundamental problems and opportunities for performance improvement.

4. Critical Operational Elements: Isolates critical operational elements for strategic planning.

5. Positioning for Execution: Strategically positions organizations for effective tactical execution.

While the prospect of bankruptcy may seem overwhelming, business owners facing financial troubles can take some comfort in engaging trusted advisors to guide them through the process. In short, you must understand the distinctions between Chapter 11, Chapter 7, and Subchapter 5. Through Bankruptcy litigation consulting and support services, we offer many solutions to businesses in financial distress. Remember, with the right support, there's always hope for a brighter tomorrow. You can turn around your business before bankruptcy is needed. Contact Newpoint Advisors today to learn more!

Contact Us

Category

1. Business Insights

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