

BANKRUPTCY CODE AND MINNESOTA EXEMPTIONS

JULY 2020

PROPERTY	BANKRUPTCY CODE	NONBANKRUPTCY LAW
1. Homestead	The debtor's aggregate interest not to exceed \$25,150 in value in real or personal property that the debtor or a dependent of the debtor uses as a residence. 11 U.S.C. § 522(d)(1).	<p>Up to \$450,000 of value of real property owned and occupied by the debtor, whether the exemption is claimed individually or jointly. Exemption is \$1,250,000 for land used primarily for agricultural purposes. Minn. Stat. § 510.02. Both limited to 160 acres.</p> <p>A manufactured home that is actually inhabited as a home by the debtor is also exempt. Minn. Stat. § 550.37, subd. 12.</p> <p>In addition, the proceeds of a homestead are exempt for up to one year. Minn. Stat. § 510.07.</p> <p>Under some circumstances the Bankruptcy Code limits this exemption.</p>
2. Family Bible, Library and Musical Instruments	No comparable exemption.	Minn. Stat. § 550.37, subd. 2. Note: The exemption for musical instruments was held unconstitutional in <i>In re Hilary</i> , 76 B.R. 683 (Bankr. D. Minn. 1987).
3. Burial Plot	Included within part of the homestead exemption. 11 U.S.C. § 522(d)(1).	One lot in any burial plot. Minn. Stat. § 550.37, subd. 3.
4. Motor Vehicle	\$4,000 in one motor vehicle. 11 U.S.C. § 522(d)(2).	\$5,000 in one motor vehicle, or \$50,000 for a vehicle that has been modified, at a cost of not less than \$3,750 to accommodate a physical disability. Minn. Stat. § 550.37, subd. 12a (measured by the debtor's equity, not the total value).

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5. Household Furnishings, Household Goods, Wearing Apparel, Appliance, Books or Musical Instruments	\$625 per item, limit of \$13,400 total value. 11 U.S.C. § 522(d)(3).	Clothing, utensils and foodstuffs are not subject to a dollar limitation. Minn. Stat. § 550.37, subd. 4(a). \$11,250 total value of household furniture, household appliances, radios and television. Minn. Stat. § 550.37, subd. 4(b).
6. Jewelry	\$1,700 total value. 11 U.S.C. § 522(d)(4).	One watch. Minn. Stat. § 550.37, subd. 4(a). \$3,062.50 in wedding rings. Minn. Stat. § 550.37, subd. 4(c).
7. Any Property	The Bankruptcy Code provides an exemption of \$1,325 plus the unused portion of the homestead exemption, not to exceed \$12,575. This exemption can be designated by the debtor to apply to any property. 11 U.S.C. § 522(d)(5).	No comparable exemption.
8. Implements, Professional Books, Office Furniture, Tools and Library	\$2,525. 11 U.S.C. § 522(d)(6).	\$12,500 (specifically excludes farm equipment). Minn. Stat. § 550.37, subd. 6.

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9. Farm Machine and Implements	Included in tools of the trade. 11 U.S.C. § 522(d)(6).	Farm machine and implements, \$13,000 of farm machines and implements including livestock, farm produce and standing crops used by a debtor engaged principally in farming. Minn. Stat. § 550.37, subd. 5. The total value of property selected pursuant to subdivision 5 and subdivision 6 cannot exceed \$13,000. Minn. Stat. § 550.37, subd. 7.
10. Funds Received by or Payable to a Surviving Spouse or Child at the Death of a Spouse or Parent	Amount reasonably necessary for support of debtor and dependents of debtor. 11 U.S.C. § 522(d)(11)(B).	\$50,000 plus \$12,500 for each dependent. Minn. Stat. § 550.37, subd. 10.
11. Loan Valued or Accrued Dividend Under an Unmatured Life Insurance Contract	\$13,400 less any amount used by insurance company to pay automatic premium or non-forfeiture payment. 11 U.S.C. § 522(d)(8).	Exempt up to \$10,000. Minn. Stat. § 550.37, subd. 23.
12. Health Aids	Totally exempt. 11 U.S.C. § 522(d)(9).	No comparable exemption.

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13. Earnings	<p>Under 11 U.S.C. § 541, post-petition earnings are not property of the estate, except under chapter 11, 12, or 13.</p> <p>A chapter 7 debtor may be required to devote a portion of her earnings to creditors based on the outcome of the means test. <i>See</i> 11 U.S.C. § 707(b).</p>	<p>Earnings. The greater of 75 percent of disposal earnings or 40 times minimum hourly wage per week of pay period. On July 24, 2009, minimum wage was increased to \$7.25. Minn. Stat. § 550.37, subd. 13; Minn. Stat. § 571.922, subd. 13.</p> <p>The earnings or salary of a person who is a recipient of government assistance based on need is exempt. Minn. Stat. 550.37 Subd. 14. Earnings are also exempt for six months after the termination of the government assistance program.</p>
14. Social Security Benefits, Unemployment Compensation or Local Public Assistant Benefits	Totally exempt. 11 U.S.C. § 522(d)(11)(A).	Social Security benefits are exempt under 42 U.S.C. § 407. Unemployment compensation is exempt under Minnesota Statutes section 261.192. Relief based on need is exempt under Minnesota Statutes section 550.37, subdivision 14.
15. Veterans Benefits	Totally exempt. 11 U.S.C. § 522(d)(10)(B).	Exempt for a period of one year. Minn. Stat. § 550.38.
16. Disability, Illness or Unemployment Benefits	Totally exempt. 11 U.S.C. § 522(d)(10)(C).	<p>Payments from accident or disability insurance are exempt. Minn. Stat. § 550.39. However, that provision has been ruled unconstitutional in <i>In re Reiland</i>, 377 B.R. 232 (Bankr. D. Minn. 2007).</p> <p>Unemployment benefits are exempt. Minn. Stat. § 268.192.</p>

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<p>17. Alimony, Support or Maintenance</p>	<p>Exempt to the extent reasonably necessary for the support of the debtor and the debtor's dependents. 11 U.S.C. § 522(d)(10)(D).</p>	<p>Child support is exempt. Minn. Stat. § 550.37 subd. 15.</p>
<p>18. Stock Bonus, Pension, Profit Sharing or Similar Benefits</p>	<p>Exempt to the extent reasonably necessary for the support of the debtor and the debtor's dependents. 11 U.S.C. § 522(d)(10)(E). ERISA-qualified plans are exempt from seizure of creditors under applicable "nonbankruptcy law" are not property of the bankruptcy estate and, therefore, not subject to the claims of debtor's creditors or the trustee in bankruptcy. <i>Patterson v. Shumate</i>, 505 U.S. 1239 (1992).</p> <p>Any retirement funds to the extent that those funds are in an amount that is exempt from taxation under sections 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code (these are provisions regarding rollovers, etc.). 11 U.S.C. § 522(d)(12).</p> <p>Certain IRAs, however, are subject to a \$1,362,800 cap. 11 U.S.C. § 522(n).</p>	<p>Stock Bonus, Pension, Profit Sharing or Similar Benefits. Minn. Stat. § 550.37, subd. 24. The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, Roth IRA, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age or length of service, to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of \$75,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor.</p> <p>In the event of a bankruptcy filing, ERISA-qualified plans are exempt from seizure of creditors and are not property of the bankruptcy estate; therefore, not subject to the claims of debtor's creditors or the trustee in bankruptcy. 11 U.S.C. § 541(b)(7); <i>Patterson v. Shumate</i>, 505 U.S. 1239 (1992).</p> <p>Any retirement funds to the extent that those funds are in an amount that is exempt from taxation under sections 401, 403, 408, 408A, 414, 457, or 501(a) of the IRC (these are provisions regarding rollovers, etc.). 11 U.S.C. § 522(b)(3)(C). Certain IRAs are capped at \$1,245,475. 11 U.S.C. § 522(n).</p>

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19. Award Under a Crime Victim's Reparation Law	Totally exempt. 11 U.S.C. § 522(d)(11)(A).	No comparable exemption.
20. Payment on Account of Wrongful Death	Exempt to the extent reasonably necessary for the support of the debtor and debtor's dependents. 11 U.S.C. § 522(d)(11)(B).	Totally exempt under Minnesota Statutes section 550.37, subdivision 22. (This exemption was held unconstitutional by local bankruptcy courts.)
21. Payment on Account of Personal Bodily Injury	A \$25,150 exemption is provided, but it does not include an award for pain and suffering or for compensation for actual pecuniary loss. The exemption covers payments for personal bodily injury to the debtor or a dependent. 11 U.S.C. § 522(d)(11)(D).	General damages claim is exempt; special damages are not exempt. <i>In re Bailey</i> , 84 B.R. 608 (Bankr. D. Minn. 1988); Minn. Stat. § 550.37, subd. 22.
22. Proceeds of Payments Received by Mechanic Lien Holder	No comparable exemption.	Totally exempt under Minnesota Statutes section 550.37, subdivision 25.
23. Government Assistance Based on Need	No comparable exemption.	All government assistance based on need, and the earnings or salary of a person who is a recipient of government assistance based on need is exempt. Minn. Stat. 550.37 Subd. 14. Earnings are exempt for six months after the termination of the government assistance program.

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24. Health Savings Accounts; Medical Savings Accounts	No comparable exemption	Exempt up to \$25,000. Minn. Stat. § 550.37, subd. 26 (effective August 1, 2018)

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