

CHAPTER 2: BANKRUPTCY LAW AND WHERE TO FIND IT

TRUE/FALSE

1. Under BAPCPA, Chapter 12 was made a permanent chapter of the Bankruptcy Code.

ANS: T PTS: 1

2. The chapters of the Bankruptcy Code are 1, 3, 5, 7, 9, 11, 13, and 15.

ANS: F PTS: 1

3. Most bankruptcy courts have adopted Local Rules to supplement the Bankruptcy Rules.

ANS: T PTS: 1

4. “Bankrupt” is the term used to describe the person or entity who is the subject of a bankruptcy case.

ANS: F PTS: 1

5. The definitions in Chapter 1 of the Bankruptcy Code apply throughout the Bankruptcy Code.

ANS: T PTS: 1

6. Although the Constitution granted Congress the power to enact legislation in the area of bankruptcy, states also may have their own bankruptcy laws, especially in those areas where Congress has not acted.

ANS: F PTS: 1

7. The holding and rationale of a United States Supreme Court opinion is mandatory primary authority.

ANS: T PTS: 1

8. State legislation is mandatory primary authority for transactions covered by state statute.

ANS: T PTS: 1

9. The holding and rationale of a United States Bankruptcy Court interpreting a federal statute is mandatory primary authority and must be followed by all bankruptcy courts nationwide.

ANS: F PTS: 1

10. Under the Bankruptcy Act of 1898, Chapter Twelve was referred to as “Chapter 12.”

ANS: F PTS: 1

11. Under the Bankruptcy Code of 1978, Chapter Twelve is referred to as “Chapter XII.”

ANS: F PTS: 1

MATCHING

Match each item with the correct statement below.

- | | |
|--------------|---------------|
| a. Chapter 1 | e. Chapter 9 |
| b. Chapter 3 | f. Chapter 11 |
| c. Chapter 5 | g. Chapter 12 |
| d. Chapter 7 | h. Chapter 13 |
-
12. Adjustment of Debts of an Individual with Regular Income
 13. Liquidation
 14. General Provisions
 15. Adjustment of Debts of a Family Farmer or Family Fisherman with Regular Annual Income
 16. Case Administration
 17. Adjustment of Debts of a Municipality
 18. Creditors, the Debtor, and the Estate
 19. Reorganization

- | | |
|------------|--------|
| 12. ANS: H | PTS: 1 |
| 13. ANS: D | PTS: 1 |
| 14. ANS: A | PTS: 1 |
| 15. ANS: G | PTS: 1 |
| 16. ANS: B | PTS: 1 |
| 17. ANS: E | PTS: 1 |
| 18. ANS: C | PTS: 1 |
| 19. ANS: F | PTS: 1 |

MULTIPLE CHOICE

20. States may ____.
- a. enact bankruptcy legislation if Congress has not acted
 - b. enact bankruptcy legislation if Congress has not acted on the specific topic
 - c. enact bankruptcy legislation even if Congress has acted and thus give residents in that state a choice between federal and state bankruptcy
 - d. not enact bankruptcy legislation because the United States Constitution has preempted the field for Congress

ANS: A

PTS: 1

COMPLETION

21. The universal chapters of the Bankruptcy Code are: _____.

ANS: 1, 3, 5

PTS: 1

22. The operative chapters of the Bankruptcy Code are: _____.

ANS: 7, 9, 11, 12, 13, 15

PTS: 1

23. In which chapter of the Bankruptcy Code is each of the following sections found?

Section 1112 _____

Section 101 _____

Section 707 _____

Section 503 _____

ANS: Chapter 11, Chapter 1, Chapter 7, Chapter 5

PTS: 1

SHORT ANSWER

24. Which courts may hear appeals directly from a bankruptcy court?

ANS:

The United States District Court; and the Bankruptcy Appellate Panel, but only if the Circuit has authorized the establishment of BAP Panels.

PTS: 1

25. Who has authority to create the Federal Rules of Bankruptcy Procedure and the Official Forms?

ANS:

The United States Supreme Court.

PTS: 1

ESSAY

26. Explain how the concept “after notice and a hearing” helps facilitate the administration of bankruptcy cases.

ANS:

As long as proper notice is given to parties in interest, a hearing will be necessary only if an objection is timely filed.

PTS: 1

27. Why is the power conferred upon Congress in Article I, Section 8, Clause 4 of the United States Constitution important? (Why is it important that the power to create bankruptcy laws be federal rather than state?)

ANS:

Article 1, Section 8, Clause 4 authorizes Congress to enact uniform laws on the subject of bankruptcy. It is important that the law is federal law because it requires that bankruptcy law be uniform throughout the United States.

PTS: 1

28. Why are some chapters in the Bankruptcy Code called “universal chapters” and others called “operative chapters”?

ANS:

The universal chapters apply to all the operative chapters, where sections of the operative chapters apply only to cases under that chapter.

PTS: 1

29. Describe the federal court structure for bankruptcy.

ANS:

Bankruptcy cases are heard by bankruptcy courts that have jurisdiction over bankruptcy cases upon referral from district courts. Appeals from bankruptcy courts are heard by the district court or BAP Panel, or under limited circumstances, the United States Court of Appeals. Appeals from the district court or BAP Panel are heard by the United States Court of Appeals. Finally, appeals from the United States Court of Appeals are heard by the United States Supreme Court, if the Court grants certiorari.

PTS: 1

30. Which courts write bankruptcy opinions? What are the names of the publications or databases in which the various opinions can be found?

ANS:

Bankruptcy courts, district courts, BAP panels, courts of appeal, and the United States Supreme Court all issue opinions for publication. Opinions may be found in the *Bankruptcy Reporter*, *Bankruptcy Court Decisions*, *Collier’s Bankruptcy Cases*, and the *Bankruptcy Law Reporter*.

PTS: 1

31. Briefly describe the difference between primary and secondary authority.

ANS:

Primary authority is found in the Constitution, statutes, rules, regulations and case law. Secondary authority is found in legislative history, treatises, periodicals, and form books.

PTS: 1

32. For each of the following categories, state whether it is primary or secondary authority, and list one source within that category and briefly describe when one would use that source.

ANS:

Bankruptcy law cases: primary authority, Bankruptcy Court Reporter, to explain the interpretation of the Bankruptcy Code.

Legislative history: secondary authority, the Congressional Record, to interpret a statute in the absence of case law.

Digests: secondary authority, *West's Bankruptcy Digest*, to find case law.

Loose-leaf services: secondary authority, *Bankruptcy Law Reporter*, for developments in bankruptcy law.

Treatises: secondary authority, Tabb, *The Law of Bankruptcy*, for an in-depth analysis of bankruptcy law.

Legal periodicals: secondary authority, *American Bankruptcy Law Journal*, for an in-depth analysis of a specific topic.

American Law Reports: secondary authority, *American Law Reports, Federal*, provide an analysis of decisions interpreting federal law.

Legal encyclopedias: secondary authority, *American Jurisprudence, 2d*, discussion of legal topics.

PTS: 1