Talk about not having any manners! You've barely sat down in a bankruptcy attorney's office, exchanged a few pleasantries, and then…one of the most private questions is asked of you: How much money do you make? Or more specifically, how much gross income (before taxes are removed from your pay check) have you been averaging per month for the past 6 months? Why would a bankruptcy lawyer be asking you this question? Because one of the decisive factors in determining whether you qualify for a chapter 7 bankruptcy versus a chapter 13 bankruptcy is income.

You determine your income by first averaging your gross income for the past 6 months. Your average gross income is used because there are some folks out there whose income fluctuates from month to month based on hours worked, commissions earned, etc. Then, multiply that number by 12.

This number will be your income for bankruptcy purposes.

The next key question that a bankruptcy attorney will ask you is how big is your household? Why? Because, as usual, size does matter. Meaning, the larger the number of people in your household the more income you are "permitted" to make.

With these two key pieces of information a bankruptcy attorney will then review your state's median income. If you are interested in finding out what your state's median income is, visit: http://www.justice.gov/ust/eo/bapcpa/20090315/bci_data/median_income_table.htm In Virginia, for instance, the 2010 median income is as follows:

| Household Size | Income |
|---|---|
| 1 | $48,190 |
| 2 | $64,890 |
| 3 | $73,887 |
| 4 | $85,633 5 |
| 5 | $93,133 6 |
| 6 | $100,633 |

So what do these figures mean? Well, it means that if you are below your state's median income then you automatically qualify for a chapter 7 bankruptcy. If you are way above your state's median income, then in all likelihood you will only qualify for a chapter 13 bankruptcy.

Because I am fond of examples, let's say that a household of three in Virginia is considering filing for bankruptcy. The household consists of a husband, a wife, and one child. The wife works and earns $65,000 per year. The husband earns no income since he is a stay-at-home Dad (that's right people, this is 2010 and we have stay-at-home Dads now). Based on the chart above, the wife would automatically qualify for chapter 7 bankruptcy.

And what if in the foregoing example the wife earns $83,000 per year? Would she still qualify for a chapter 7 bankruptcy despite the fact that she is somewhat above Virginia's median income for her household size of three? The answer is almost certainly, yes. If you are somewhat above the state median income for your household, then you would need to apply the "means test" and you would most likely qualify. If however, your income is way above the permitted state median income, then chances are that you would fail the "means test" and have to file for a chapter 13 bankruptcy.

So what's with these numbers? And who determines these numbers? Well, these numbers are the result of the Bush 2005 Bankruptcy Reform Act. After great pressure from the banking industry that was bemoaning the fact that people were abusing the bankruptcy laws and qualifying for bankruptcy far too easily, Congress/Bush finally caved in and passed this legislation. The crux of the new law was to do away with the subjective determination of who rightfully qualified for a chapter 7 bankruptcy versus those who were considered to be "abusing" the system. In its place, Congress decided to introduce a systematic formula based on dollars and cents with the logic being that if you don't make a whole lot of money, then you qualify for the privilege of filing a chapter 7 bankruptcy. Otherwise, off to 13 land you go, where monthly payments for the next 3 or 5 years will be expected.

And finally, yes, your observation are correct, the state in which you live in can make a huge difference when making this analysis. And yes, if you said that this reminds you of a "three legged stool" I would say that is a good way to look at it. Income, household size, and geography are the 3 key "ingredients". And for once, the fact that you live in Virginia is actually helpful. Wondering what this sarcastic comment about Virginia is all about? Congress, when it enacted the new law in 2005 understood that where you live is just as important as how much you make. $50,000 in Northern Virginia is not going to take you as far, as say, inWest Virginia. Congress is essentially giving you credit for living in a more expensive area and adjusting its figures accordingly.

So yes, call it money, mulla, scratch, the green stuff, whatever…When it comes to bankruptcy, the saying is true "It's all about the Benjamins."