

Dealing With Bankruptcy

What is Bankruptcy?

Bankruptcy refers to the state of an individual or organization legally declared unable to pay their creditors. Bankruptcy laws give a person the ability to clear their credit record by relieving them of most of their debts. They also allow the debtor to repay their creditors in an orderly manner to the best level that their means allow. Bankruptcy laws allow the debtor to resolve debts by dividing among creditors those belongings which are not necessary for day to day life. Declaring bankruptcy allows the debtor to be relieved of payments once their belongings have been distributed, even if their debts have not been fully paid. In addition, during bankruptcy proceedings the creditors are no longer allowed to pursue payment of the money owed to them by the debtor.

How to Prevent Bankruptcy

In most cases, people file for bankruptcy because of extensive debts which they do not have the means to pay. These are most often caused by problems such as unemployment, lack of insurance, medical expenses, marital problems, over extended credit and, in some cases, out of control spending. Making simple lifestyle changes could be a better resolution than having to file for bankruptcy. These might include selling a second car if you have one, pulling equity out of your home, applying for a non-secured signature loan, getting a loan from a relative, or selling family heirlooms.



After Filing for Bankruptcy

The most obvious consequence of filing for bankruptcy is the effect on your credit score. Bankruptcy will stay on an individual's record for seven to ten years and thus negatively affect your credit. The most important thing to do if you have filed for Chapter 13 is to make your monthly payments on time; this is the first step to improving your credit. Your credit depends on your debt-to-income ratio. Once you file for bankruptcy many of your debts will be reduced and you can begin to improve your credit immediately.



Different Kinds of Bankruptcy

Chapter 7: A Fresh Start

- Non-exempt assets are divided up among creditors
- Remaining debts are canceled

Chapter 13: The Five-Year Payment Plan

- Minimum monthly payment
- Based on the individual's means and how much of their assets they want to keep
- Once the five years are up the remaining debt is discharged

Changes to Bankruptcy Law

In October 2005 bankruptcy law went through a transformation in an effort to prevent abuse by consumers. The new law prevents individuals with the means to pay off a portion of their debt from filing for Chapter 7. In order to determine the means of the individual, their income will be subject to a two part test. First, the income will be subject to a formula which determines ability to pay 25% of “non-priority” secured debt. Next, the income will be compared to the median income in that particular state.

This change is likely to be problematic because of its effect on women. Women are 17% more likely to file for bankruptcy. The law will impact single mothers in particular; the new bankruptcy law does not address the barriers to economic security that force many women and families to file for bankruptcy in the first place. This means that women must now take measures to protect themselves from the power of commercial creditors.

Credit Counselors

- You can locate a credit counselor by either looking at local agencies in the phone book, or by using the internet.
- When considering a local agency, check if it is a nonprofit organization, what services it can offer and how much it costs.
- Check the local Attorney General’s office or consumer protection agency to see if there have been any complaints filed about the provider



- The Debt Counselors of America is a nonprofit organization dedicated to helping people improve their financial lives. Their web site is a great resource for finding a credit counselor (www.americancredit.com).

Things to Remember

- Bankruptcy is only one of the options for dealing with financial problems and should be considered a last resort.
- Meet with a professional credit counselor to go over your financial situation and help to conclude what best suits your individual circumstances.
- If you find yourself behind on your bills, make sure to talk to your creditors before you get in too deep.
- Explain to them the situation and you may be able to work out a payment plan out which will help you to avoid having to file for bankruptcy.



Helpful Resources

National Foundation of Consumer Credit
www.nfcc.org

National Association of Consumer Bankruptcy Attorneys
<http://www.nacba.com/>

‘Solutions’ Consumer Credit Counseling
<http://www.bydesignsolutions.org/>

Bankruptcy in Brief:
a Service of the Moran Law Group
<http://www.moranlaw.net/lifepostbr.htm>

Consumer Credit Counselors
<http://acc.pair.com/home.htm>

Check out the other tip sheets in Women Work!’s *Fixing Your Finances* series. Visit the resources section of www.womenwork.org to download tip sheets for free!