



BANKRUPTCY



What exactly is bankruptcy?

Bankruptcy is a legal process through which people and businesses can obtain a fresh financial start when they are in such financial difficulty that they cannot repay their debts as agreed. The fresh start is achieved by eliminating all or a portion of existing debts and/or by stretching out the monthly payments under the protection and supervision of a court. The process is also designed to protect creditors, because general unsecured creditors share equally in whatever payments the debtor can afford to make.

What is the process of filing for bankruptcy?

Filing for bankruptcy is a very personal decision. Most people file when they have made a good-faith effort to repay their debts, but see no way out other than to file for bankruptcy. Such people and businesses may declare bankruptcy by filing a petition with the U.S. Bankruptcy Court, that is, a request that the court provide protection and relief under the Bankruptcy Code. In addition to that request, the debtor must provide information about his or her assets, liabilities, income and expenditures. Often, debtors have a lawyer prepare and file the petition and other information for them, but some debtors represent themselves.

Right now, I cannot pay my debts. Besides bankruptcy, do I have any options?

Yes, there are alternatives that you may use to take care of debts that you cannot pay. Creditors might be willing to settle their claim for a smaller cash payment, or they might be willing to stretch out the loan and reduce the size of the payments. This would allow you to pay off the debt by making smaller payments over a longer period of time. The creditor would eventually receive the full economic benefit of its bargain.

Occasionally, you may "buy time" by consolidating your debts; that is, by taking out a big loan to pay off all the smaller amounts of debts that you owe. The primary danger of this approach is that it is very easy to go out and use your credit cards to borrow even more. In that case, you end up with an even larger total debt and no more income to meet the monthly payments. Indeed, if you have taken out a second mortgage on your home to obtain the consolidation loan, you might lose your home as well.

Is there anybody in particular I should contact about these options?

Yes. If you are behind on your payments, the collectors for each of your creditors may already be calling or writing you. You might be more successful if you phone each creditor, ask for the collection department, ask and note the name of the person you talk

to, and explain your intent to repay the account and your need to stretch out the number of monthly payments and reduce their size. You might offer to come to the collection department office to discuss your situation. Ask each creditor to agree to a voluntary plan for the repayment of your debts.

I owe money to many creditors. What should I do?

The problem of dealing with many creditors is that some of them might not want to give you more time to pay without knowing what the other creditors are willing to do. You can seek the help of a lawyer to negotiate an arrangement with your creditors. If your Army Community Service (ACS) office has financial counselors, you can see them with your questions. Or you can seek the help of a consumer credit counseling service (CCCS). You can find the nearest CCCS by calling 1-800-388-2227. These centers charge a small monthly service fee. However, creditors provide most of the support for financial counseling services.

The repayment plans arranged through credit counseling centers enable you to make monthly payments which are then re-distributed by the program among creditors until all your debts are paid in full.

a repayment plan through a financial counseling service, you still might have to pay interest charges on your debts. However, many creditors will waive interest charges and delinquency fees.

What are the advantages of filing for bankruptcy?

There are several advantages to filing for bankruptcy. By far the most important advantage is that debtors may obtain a fresh financial start. Consumers who are eligible for Chapter 7 may be forgiven (discharged from) most unsecured debts. A secured debt is one which the creditor is entitled to collect by seizing and selling certain assets of the debtor if payments are missed, such as a home mortgage or car loan. With those two major exceptions, most consumer debts are unsecured.

You may be able to keep (that is, exempt) many of your assets, although state laws vary widely in defining which assets you may keep.

Collection efforts must stop as soon as you file for bankruptcy under Chapter 7 or Chapter 13. As soon as your petition is filed, there is by law an automatic stay, which prohibits most collection activity. If a creditor continues to try to collect the debt, the creditor may be cited for contempt of court or ordered to pay damages. The stay applies even to the loan that you may have obtained to buy your car. If you continue to make payments, it is unlikely that your creditor will do anything. However, if you miss payments, your creditor will probably petition to have the stay lifted in order either to repossess the car or to renegotiate the loan.

What are the disadvantages?

Since your bankruptcy filing will remain on your credit record for up to ten years, it may affect your future finances. A bankruptcy is a troublesome item in your credit record, but often debtors who file already have a troublesome history.

In one respect, bankruptcy may improve your credit records. Because Chapter 7 provides for a discharge of debts no more than once every eight years, lenders know that a credit applicant who has just emerged from Chapter 7 cannot soon repeat the process.

Research in this area has produced mixed results. A study by the Credit Research Center at Purdue University found that about one-third of consumers who filed for bankruptcy had obtained lines of credit within three years of filing; one-half had obtained them within five years. However, the new credit itself may reflect the record of bankruptcy. For example, if you might have been eligible for a bank card with a 14 percent rate before bankruptcy, the best card that you can get after bankruptcy might carry a rate of 20 percent—or you might have to rely on a card secured by a deposit that you make with the credit card issuer.

Bankruptcy, as well as a lot of debt, might affect your security clearance. Check our Fact Sheet on Security Clearance Rebuttals and Appeals.



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