

BANKRUPTCY

QUESTIONS AND ANSWERS

Q: I am being hounded by a number of creditors. Will filing for bankruptcy help?

A: Yes. Once your bankruptcy petition has been filed with the court all collection efforts, including repossession and foreclosure must stop. If you have any pending court actions, those will also stop.

Q: I am in debt because I've been irresponsible in using credit. Will I be denied a discharge because I don't have a good excuse for debt.

A: No. The bankruptcy system does not ask whether you got in debt due to unforeseen circumstances that were no fault of your own or whether you merely were living "over your head." Near the end of your bankruptcy case you are required to complete a financial management course which may assist you in the future.

Q: What does the term "fresh start" mean in association with bankruptcy?

A: By discharging your debts in a Chapter 7 bankruptcy you can get a "fresh start" and move on to rebuild your financial and personal life without the worry of being overwhelmed by an unbearable load of debt.

Q: What is a Chapter 13 filing?

A: In addition to Chapter 7, you may elect to file for a Chapter 13 bankruptcy which allows you to reorganize your debt and repay your creditors, through a court approved plan, over a period of time. Most people opt for filing a Chapter 7.

Q: Can I ever be sent to jail for failing to pay a bill?

A: With few exceptions, in the United States an individual may not be jailed for failing to pay a debt. The exceptions include failing to pay fines or penalties or child support. Although failure to pay debts may lead to litigation and even involuntary bankruptcy, it does not normally result in jail time.

Q: My spouse and I have amassed a huge amount of credit cards debts, and now we're faced with a major medical bill and no medical insurance. Is bankruptcy a solution? Are there any other solutions?

A: Yes, bankruptcy may be a good choice if you cannot reasonably expect to pay off all of those bills in a year or two. There are alternatives to bankruptcy that may work for you. You may be able to arrange an informal workout with you

creditors that will enable you to repay most, if not all, of the debts you've run up over a few years.

Q: I'm thinking of filing a Chapter 7 bankruptcy petition. Will I lose much of my property?

A: It depends on how much property you own. Bankruptcy "exemptions" let you keep a certain amount of your property. If you own little, you may not lose anything. On the other hand, if you own a house with a substantial amount of equity and have very valuable possessions and investments, you may lose a lot. In a Chapter 7 bankruptcy, the price of your debt relief is the loss of some of your property. However, you will know before your bankruptcy is filed if you are at risk of losing any of your assets.

Q: One of my creditors has filed a lawsuit against me. Will this suit continue if I file for bankruptcy?

A: Normally no. Once a bankruptcy filing is filed with the court all lawsuits must stop, and debt collection matters will be transferred to the bankruptcy court. If you are involved in a divorce action, the bankruptcy court will normally allow the divorce proceedings to continue.

Q: If I file for bankruptcy, will it affect my credit rating?

A: Yes. A bankruptcy filing will have a negative impact on your credit rating although a good credit rating can be reestablished. The bankruptcy will appear on your credit history whenever you apply for a loan or credit card. At first, this may prevent you from obtaining credit at all. You can rebuild your credit, and after a while most creditors will overlook the earlier bankruptcy.

Q: Is bankruptcy the same in all states?

A: Yes and no. Although bankruptcy is a federal remedy and the Bankruptcy Code is the same in each state, there are also some variations between the states. Most courts have some local rules. Also there is a good deal of variation in the "exemptions" available in the various states. These exemptions govern what property you get to keep, so what property you keep, and what you lose, can vary state by state.

Q: I've heard about a "eight-year rule." What is it?

A: Individuals are only allowed to file for Chapter 7 bankruptcies every eight years. This prevents someone from coming in every year and discharging his debts in an irresponsible manner. The eight-year rule only applies to Chapter 7 bankruptcies.

Q: I have heard that a person must be insolvent before declaring bankruptcy. What

does this mean in practical terms?

- A: "Insolvency" is the inability of an individual to pay his bills as they fall due. There is no requirement that a person's debts exceed his assets however.
- Q: If I file for bankruptcy, will I be relieved of the obligation to file my income tax return for the year?
- A: No. Even though you file for bankruptcy you are still responsible for filing your Federal and State income tax returns during the bankruptcy proceedings.
- Q: I've heard that one alternative to filing for bankruptcy is to use the Consumer Credit Counseling Service. What does the CCC offer as an alternative to bankruptcy?
- A: The nonprofit Consumer Credit Counseling Service will assign a credit counselor to work with you. With the CC's help you may be able to negotiate with your creditors to extend payment dates under a plan that will allow you to fully repay your debts.
- Q: What advantages does the CCC have over bankruptcy?
- A: A CCC plan has two major advantages over a bankruptcy filing. First, the cost will be minimal. Second, this type of workout will prevent putting a bankruptcy on your credit record.

