

Ways to deal with your difficult financial situation

If you choose to deal with your debts outside bankruptcy:

1. Create a budget for your realistic, monthly expenditures for current living. With the money you have available each month after paying your current living expenses, can you pay off your existing debts at the current interest rates in 3 years? You cannot accomplish this by making only minimum payments. You can find many good financial calculators online to help you determine how long it would take you to repay your debts.
2. Be prepared to drastically reduce expenses, increase income, negotiate interest rates or sell assets to make that possible.
3. Be aware that outside of bankruptcy, cancellation of debt may be treated as if it were income for tax purposes. After settling debt you may receive a 1099 for the amount you did not have to pay.
4. There are several strategies for dealing with creditor harassment. First, be as honest as possible. If you explain why your account is in default, you may be able to persuade the creditor to allow you more time for payment or to make other arrangements for payment, but this is not always the case. Some creditors and collection agents are reasonable; others may rely on threats and intimidation.
5. In the event a creditor begins foreclosure, unless the creditor is willing to accept payments to reinstate the loan, you will have to either pay the full balance remaining on the loan or file bankruptcy for protection to stop the foreclosure. One additional option is to contact HUD for mortgage assistance. Sometimes creditors will agree to stop foreclosure while HUD is reviewing your file.
6. Beware of companies that say they can negotiate with your creditors to help you repay your debt. Many of these companies have been investigated by the IRS and FBI and found to have violated the law and cheated people out of their money. If you choose this course of action, investigate the credibility, reliability and history of the company you choose.

You might seek the advice of an attorney that handles this type of case since they are strictly regulated by the state bar of your state.
7. You can consider, but it is not advisable to liquidate your IRA's or 401K plans to pay creditors. These assets are generally protected from collection actions by creditors. They are hard to replenish once spent. Most importantly, using retirement savings to pay creditors may create new debt in the form of income taxes and penalties for early withdrawal. Your good intentions to repay creditors may just end up substituting the IRS as a tax creditor in place of your existing creditors.
8. If you can't pay off your debt within three years on the present terms, you might contact a non-profit organization or attorney that sets up debt management plans. You will set up a budget to allow you to negotiate with creditors and reduce your payments and maybe the interest rate charged on each debt. Most creditors will cease collection actions when you are

participating in a debt management plan, but be aware that some creditors will not accept debt management plans, thus you will have to deal with them separately. These plans usually work best when the debt is primarily credit card debt.

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Reasons bankruptcy may be your best option.

1. Filing for either Chapter 7 or Chapter 13 bankruptcy will immediately stop creditor harassment.

2. Bankruptcy may be the best, or only, solution for extreme financial hardship. If you have been sick, developed a condition or disease that prevents you from working or you have reached retirement age and are living on social security and/or pension or retirement funds and can not work and make enough to pay your debts, bankruptcy may be your only option to get relief from your debts.

3. Taxes are debts to a government agency that are different from other debts to other types of creditors, however, because the governmental agencies collecting these taxes have greater power over you and your property than other creditors.

The Bankruptcy Code provides protection to you from these taxing authorities. They may have less ability to affect you and your property while you are under bankruptcy protection. The filing of a bankruptcy case may stop collection activity of governmental agencies for the collection of taxes owed. A Chapter 13 bankruptcy can provide for level monthly payments of your tax obligation without additional interest or penalties. Chapter 7 and Chapter 13 can reduce or eliminate certain tax obligations that have been due and payable for more than three years.

4. In the event a creditor begins foreclosure, you will receive a notice of the foreclosure proceeding. Unless the creditor is willing to accept payments to reinstate the loan, you will have to either pay the full balance remaining on the loan, or file bankruptcy for protection to stop the foreclosure. One additional option is to contact HUD for mortgage assistance. Sometimes creditors will agree to stop foreclosure while HUD is reviewing your file.

The beginning of a bankruptcy case, if before the foreclosure sale date, will stop the foreclosure sale from taking place. Under a Chapter 13 plan, you can make regular monthly payments and be given a reasonable period of time to bring your loan payments up to date to save your property.

Bankruptcy may be the best solution for extreme financial hardship. However, it should be used as a last resort, since it can have long-lasting consequences in relation to your credit. For more information on foreclosures, consult with an attorney experienced in bankruptcy law.

5. If your credit is substantially impaired, now or in the near future, filing bankruptcy may be one of the best things you can do to improve your credit. After filing bankruptcy you are debt free and you have the option and ability to rebuild your credit.

6. If lawsuits or judgments are a threat or reality, the protection afforded under the bankruptcy laws may be an appropriate solution for you. If a lawsuit has been filed against you or a judgment has been taken, filing a bankruptcy can stop the further proceedings or enforcement. If a creditor has a judgment and is garnishing your wages, the garnishment can be stopped. Filing for Chapter 7 bankruptcy may relieve you of the obligation to pay the judgment. In a Chapter 13, you may be able to satisfy the judgment over a period not to exceed five years. If the judgment has placed a lien on your home, that lien can be removed if it interferes with your homestead. Consult an attorney to help you understand your rights.
7. If a creditor is threatening repossession of the collateral you hold, bankruptcy may be the only way to avoid repossession.
8. Bankruptcy may be able to cancel the debt, or it may give you the opportunity to stop the repossession. However, bankruptcy should be used in only the most serious circumstances since it can affect your credit for up to ten years. If your property has already been repossessed, some states give you the opportunity to have your property returned by paying all outstanding loan charges, fees, and costs.
9. Bankruptcy is regulated by federal law. When you file bankruptcy you receive the protection of a federal court. Debt management plans are deals with creditors. You can't always count on the creditors or those who arrange the debt management plans to do what they said they would do. In a bankruptcy, you have federal law to protect you and ensure that your debts are discharged in a manner that can be upheld in a court of law.
10. If and how any of the above situations apply to you can only be determined by a competent attorney who can help you determine your best course of action. **The information in this handout is not intended as and does not represent legal advice.**

Consequences of filing bankruptcy

1. Filing for bankruptcy is a matter of public record and names of individuals filing are sometimes published in the newspaper.
2. Filing for bankruptcy protection is not free. A filing fee must be paid. If you hire an attorney, you must pay attorney's fees.
3. Not all debts are dischargeable. For example, most domestic support obligations (child support or alimony), some tax debts, and most student loan debts are not dischargeable.
4. If you include utility bills from a utility company currently providing service to you, the utility company may terminate services if you do not pay a reasonable security deposit or provide other adequate assurance of payment within 20 days of the filing of the bankruptcy petition.
5. Filing a Chapter 7 Bankruptcy may possibly bring a loss of property, since this chapter of bankruptcy deals with the selling of non-secure (or non-exempt) assets.

6. Many employment applications ask if you have ever filed a bankruptcy. Answering yes, may not prevent you from getting a job with that company, but it may influence the hiring decision.
7. A notation of your having filed a Chapter 7 bankruptcy will remain on your credit reports for 10 years from the date of filing. A discharged Chapter 13 will remain for 7 years.
8. There are several specific paperwork requirements for filing bankruptcy. You must provide paystubs or payment advices, tax returns and maybe verification of assets you own or control. If you have not filed a tax return in any of the past eight years, you will be required to file returns or provide information why you were not required to do so, or you will not be granted bankruptcy protection.
9. If you file Chapter 7 bankruptcy, the creditor can proceed against your co-signers, according to the terms of the debt agreement. If, on the other hand, you file a bankruptcy petition and a proposed payment plan under Chapter 13, your creditors cannot collect from your co-signers unless it becomes clear that the Chapter 13 plan will not pay the entire amount owed.
10. Depending on the timing of the filing of the bankruptcy petition, and what chapter of bankruptcy is filed, you could be required to turn over state and federal tax refunds to the bankruptcy trustee.
11. In most instances, transfers of property and/or payments made to (1) general creditors within ninety days prior to the filing of a bankruptcy petition, and/or (2) relatives within one year prior to the filing of a bankruptcy petition, are subject to being recovered by the bankruptcy trustee.

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