

## **Bankruptcy Myths: 12 myths about filing for bankruptcy**

**No, you will not lose everything you own. And no, you can't want only run up bills just before filing; that's called fraud.**

Like most big, bad scary things, bankruptcy has a reputation based on a few tidbits of truth and lots of embellishment. It's not nearly as frightening as you may have been led to believe but once you know the truth, you will be able to get through it.

With a view toward punching a hole in a lot of the urban myths that have circulated, listed below are a few dozen misconceptions about filing bankruptcy:

- [. Everyone will know I've filed for bankruptcy](#)
- [. All debts are wiped out in Chapter 7 bankruptcy](#)
- [. I'll lose everything I have](#)
- [. I'll never get credit again](#)
- [. If you're married, both spouses have to file for bankruptcy](#)
- [. It's really hard to file for bankruptcy](#)
- [. Only deadbeats file for bankruptcy](#)
- [. I don't want to include certain creditors in my filing because otherwise I can never pay them what I owe](#)
- [. Filing for bankruptcy will improve my credit rating because all those debts will be gone](#)
- [. You can't get rid of back taxes through bankruptcy](#)
- [. You can only file for bankruptcy once](#)
- [. I can max out all my credit cards, file for bankruptcy and never pay for the things I bought](#)

[And here are the details:](#)

### **[1. Everyone will know I've filed for bankruptcy.](#)**

[Unless you're a prominent person or a major corporation and the filing is picked up by the media, the chances are very good that the only people who will know about a filing are your creditors. While it's true that bankruptcy is a public legal proceeding, the number of people filing is so massive that very few publications have the space, the manpower or the inclination to run all of them.](#)

### **[2. All debts are wiped out in Chapter 7 bankruptcy.](#)**

[Not true. Certain types of debts cannot be discharged or erased. They include child support,](#)

alimony, government-issued or government-guaranteed student loans, and debts incurred as the result of fraud. It's also very unlikely that a judge will discharge legal settlements you've been assessed, such as money you've been ordered to pay to someone who sued you.

### **3. I'll lose everything I have.**

This is the misconception that keeps people who really should file for bankruptcy from doing it, says Chris Viale, chief operating officer of nonprofit, Massachusetts-based Cambridge Credit Counseling Corp.

"They think the government will sell everything they have and they'll have to start over in a cardboard box," Viale says.

While the bankruptcy laws vary from state to state, every state has exemptions that protect certain kinds of assets, such as your house, your car (up to a certain value), money in qualified retirement plans, household goods and clothing.

Bankruptcy trustees are only interested in taking property that there is a market for, in other words property that they can sell and make money off of. Your clothes and household goods and furnishings generally would not qualify and therefore, would be of little interest. If you have a mortgage or a car loan, you will be able to keep those items as long as you continue making your payments just like the rest of us.

### **4. I'll never get credit again.**

Quite the contrary. It will not be long before you begin to receive credit card offers again. Unfortunately, chances are they will come from subprime lenders who charge high interest rates. You will get credit again because there is life after bankruptcy. But you need to be choosy as to which credit offers to accept. The last thing you want to do is run out and run up bills again and have to file a second time eight years from now. But there are places out there that cater to people who have lousy credit, no credit or have recently filed bankruptcy. Be careful and be wary. Some of these lenders may not have your best interests at heart.

Finally, if you're planning to buy a house or a car, you might wish to do that before you file. After bankruptcy, and particularly today when credit is drying up because banks have become even more risk averse, those loans will be tougher to get and the higher interest rate on such a large purchase will have a significant effect on your payments. Also, if you have a credit card with a zero balance on the day you file for bankruptcy, you do not have to list it as a creditor since you do not owe any money on it. Creditors are those people or institutions you owe money to. This means you might be able to keep that card even after the bankruptcy unless the credit card company closes the account first for non use.

### **5. If you're married, both spouses have to file for bankruptcy.**

Nope, that is not so. "It's not uncommon for one spouse to have a significant amount of debt in their name only and if that is the case it may make sense for only that spouse to file. However, if both spouses have joint debts that they're both liable for, they should file together or have property with a lot of equity it may make sense for both to file to double the amount of the

exemption. Unless both spouses file, it may become possible for the creditor to simply demand payment for the entire amount owed from the spouse who did not file.

#### **6. It's really hard to file for bankruptcy.**

Under the new law that went into effect in October of 2005, Congress made it more difficult to file for bankruptcy because they mandated new requirements like the means test and mandatory credit counseling but it's still not difficult to file provided you qualify. Technically speaking, you could file even without the advice of an attorney. However, it's highly recommended that you not do so because of some of the complexity involved particularly when it comes to the means test..

#### **7. Only deadbeats file for bankruptcy.**

Nothing could be further from the truth. Many good people are forced to file bankruptcy through no fault of their own particularly after a life-changing experience, such as a divorce, the loss of a job or a serious illness. They've struggled to pay their bills for months and just keep falling further behind. and filing for bankruptcy is the last alternative.

#### **8. I don't want to include certain creditors in my filing because it's important to me to pay them back someday and if the debt is discharged, I can't ever repay them.**

You must include all of your creditors in your bankruptcy petition, no ifs, ands, or buts. However, there is nothing in the bankruptcy code that prohibits you from repaying your creditors once you're back on your feet provided it's a voluntary repayment. That is up to you and is between you and your conscience.

#### **9. Filing for bankruptcy will improve my credit rating because all those debts will be gone.**

Filing for bankruptcy is the worst 'negative' you can have on your credit report and should be the last thing to do when all else fails. Unlike other negatives, which stay on your report for seven years, bankruptcy can be there for 10 years.

#### **10. You can't get rid of back taxes through bankruptcy.**

Generally speaking, this is true... but the catch is only taxes older than three years old can be discharged and you must have filed all of your returns.

#### **11. You can only file for bankruptcy once.**

You can file for bankruptcy more than once, but the bankruptcy law that went into effect in October 2005 lengthened the required wait between filings. You may file for Chapter 7 bankruptcy only once every eight years. You have to wait two years to repeat a Chapter 13 filing and four years between a Chapter 7 and a Chapter 13 case.

Although the statute does not forbid multiple filings even though you have waited the requisite number of years between filing, that doesn't necessarily mean that it's a good idea. Do not become one of those people who get into the habit of filing bankruptcy a repeated number of times such that it become a way of life. This is not a good idea and will wreck havoc on your credit rating.

**12. I can max out all my credit cards, file for bankruptcy and never pay for the things I bought.**

That's called fraud and bankruptcy judges can get really cranky about it. The trustee in your case will review all your purchases right before your filing. The trustee knows what to look for.

### **Conclusion**

Are you one of the many that suffer from insurmountable debt and wonder if bankruptcy is an option? Give us a call at **419 222-9933 or 800-231-4810** and we will get you in for a no-cost telephone or office consultation.