

Common Questions of Personal Bankruptcy

Here are a few common questions many have asked with the answers from our experienced bankruptcy attorneys. If you have any common questions, please call Amicus Curia at (360)427-3599.

1. [Does my spouse have to file jointly with me?](#)
2. [Who knows about my bankruptcy case?](#)
3. [Will I be able to rent after I file personal bankruptcy?](#)
4. [How do I know if I should file personal bankruptcy?](#)
5. [Is filing personal bankruptcy immoral or does it make me a bad person?](#)
6. [How do I choose a bankruptcy attorney?](#)
7. [Can I get rid of student loans or tax debts?](#)
8. [Can I get credit after filing personal bankruptcy?](#)

1. Will I lose anything if I file for personal bankruptcy?

Generally, you may file a bankruptcy and retain all of your personal belongings, including your house, your car and all household goods. Legal Helpers will make sure that all of your personal belongings are protected. If you owe more on your car than the car is worth, the bankruptcy court will not sell your car, because after sale there would be no money left over to make a distribution to your creditors. The same goes for your home and personal property. Even if your property is worth more than what is owed on it, usually we can use the state bankruptcy exemptions to protect these items.

You may be more at risk of losing property if you don't file bankruptcy, as creditors can sue you and attach your bank accounts, garnish your wages and attach and seize your property. As a result, you may miss rent, mortgage or car payments, making it difficult to provide even your most basic necessities.

2. When do I get relief from creditor harassment?

Immediately! As soon as you come into our office, we will give you a client record number and you will then refer all future creditor calls to your bankruptcy attorney at Legal Helpers. No more credit card payments and no more harassment immediately upon retaining Legal Helpers.

3. Does my spouse have to file jointly with me?

If all or most of the debts are in your name only, your spouse may not have to file. Creditors usually cannot pursue a non-filing spouse, unless he or she is legally a co-debtor on the debt. Additionally, the bankruptcy should not be reflected on the non-filing spouse's credit report. The law **DOES** vary, however, from state to state. Washington State is a community property state making both spouses liable for marital debts. Creditors can & will pursue either/both spouses in a community property State for community liabilities. A Divorce Decree in a community property State does not attenuate a Creditor's right to collect from either/both parties even after the Divorce.

4. Who knows about my personal bankruptcy case?

The only parties that receive notice of the bankruptcy are your creditors, the bankruptcy court and the IRS. Generally, the bankruptcy will have no effect whatsoever on your taxes. Your employer will not be notified of the bankruptcy unless your employer is also a creditor. The bankruptcy is public record, so anyone who wants to find out could determine that you had filed. Generally, however, only you, your creditors and the IRS will know about the bankruptcy.

5. Will I be able to rent after I file personal bankruptcy?

There were over 1 million bankruptcies filed in the United States last year alone. Common sense will tell you that these people are not all living on the street. If you are presently renting a home or apartment, usually your present landlord will renew your lease without running an updated credit report, and will have no knowledge that you even filed a bankruptcy.

If you are applying for a new lease, there could be some slight difficulties that can easily be overcome. We have found that larger leasing companies usually have stricter policies regarding leasing to applicants with blemished credit. Remember that it is the blemished credit report, not necessarily the bankruptcy that is reflecting poorly on your application. Also, with no outstanding debt, you may appear to be a better risk than other applicants who have outstanding debt and blemished credit reports. We find that a good faith gesture, such as offering an extra month security deposit, may be enough for a potential landlord to overcome her concerns about your blemished credit.

6. How do I know if I should file personal bankruptcy?

*Are you calling because you are being sued?? If you are being sued, and you own a home, we strongly urge you to speak to Amicus Curia immediately about filing a bankruptcy. A bankruptcy will stop a lawsuit immediately and prevent your creditors from placing a lien on your home or garnishing your hard-earned wages.

*Is your home being foreclosed or is your car about to be repossessed? If it is, very often bankruptcy may prevent the foreclosure action or repossession from proceeding and allow you to consolidate your mortgage arrears or automobile balance and make payments on those debts over time through a payment plan designed with your help. If your house is being foreclosed or your car is about to be repossessed, Chapter 7 bankruptcy may not be an option. Chapter 13 bankruptcy may save your house and your car.

*Do credit cards or medical bills have you so deep in debt that it is hard for you to save for the future? If you are only paying the minimum payment on the credit card bills from month to month (generally from two to three percent of the outstanding balance), and the interest rate is only 15%, you will take about 20 years to pay off a \$10,000 debt. Do you really want to be in the same financial situation in twenty years? Chapter 7 bankruptcy can provide you with a fresh start that you are entitled to under the law and get you out of debt NOW.

7. Is filing personal bankruptcy immoral or does it make me a bad person?

Everyone is entitled to a fresh start. Many times, events occur in people's lives that cannot be expected. You may have had a sudden loss in income, a family medical catastrophe, a work injury, or any one of numerous other difficulties that would have been almost impossible for which to plan. Most of the people that Amicus helps are good people who have encountered unfortunate circumstances and just want to get a fresh start. We understand that for most, bankruptcy is the last resort. Many clients have a very difficult time determining if personal bankruptcy is the right decision for them.

You must ask yourself? Are the credit card companies concerned about your financial difficulties? Are you paying your creditors instead of saving for your children's education or your retirement? When is the last time you took a vacation? Amicus Curia believes it is very

important for a preparer to provide both bankruptcy and non-bankruptcy alternatives. We believe in giving you an honest opinion as to what will put you in the best possible financial condition now and into your future. The client always comes first. Please call, (360)427-3599 to speak with Amicus Curia about the issues you should consider when deciding whether or not bankruptcy is for you.

8. Can I get rid of student loans or tax debts?

Any bankruptcy preparer or filer must have a sophisticated understanding of bankruptcy law to deal with student loan and tax debts. Until October 1998, student loans were discharged through Chapter 7 bankruptcy if the first payment on the loan became due more than seven years prior to the date of filing. In October 1998, President Clinton signed a new law into effect that disqualified all student loans from discharge. Amicus Curia can still help you obtain relief from your student loan debts through the use of Chapter 13 bankruptcy. Under Chapter 13 bankruptcy, you can consolidate your student loan debt, along with any other outstanding bills, and arrange an interest free repayment plan, so that you do not have to suffer through the burden of garnishments, harassment and other collection efforts by student loan agencies. You may even be able to reduce the amount paid to the student loan agency during the course of your Chapter 13 bankruptcy so that your consolidation payment is as low as possible. If you would like to find out more about how Amicus Curia can help ease the burden of student loan debts through the use of Chapter 13, call (360)427-3599 to speak directly with Amicus Curia.

Tax debts are generally subject to discharge only if you file personal bankruptcy more than three years after you file a timely, truthful tax return. If your return is filed late, the taxes are generally discharged only if you file bankruptcy more than two years after filing a truthful tax return. Of course, these are general rules and your circumstances may call for an alternate approach.

9. Can I get credit after filing personal bankruptcy?

Although Bankruptcy may legally be included on your credit report for up to 10 years, you can begin to reestablish your credit immediately. Remember that "credit" is your ability to borrow money. Lenders consider many factors while determining whether to loan you money, but most importantly, they consider your debt-to-income ratio. You are probably visiting this site because you already have more

outstanding debt than you have the ability to pay. So, arguably, you do not have credit.

Filing eliminates most, if not all of your debts, therefore reducing your debt-to-income ratio, potentially improving your ability to borrow money in the future. Some financial institutions actively solicit business from people who have filed. Lenders are in business to make money by lending you money and charging you interest. Lenders know that once you have filed, you will not be able to file again for 8 years.

Many clients have purchased cars immediately upon receiving their discharge orders. Many lenders have programs that provide for post-bankruptcy borrowers to obtain home financing within a year or two after a discharge. Many clients even receive solicitations for unsecured credit cards almost immediately upon receiving their discharge. Amicus Curia just wants to advise you to be careful not to get back into the credit card "trap". Credit cards can be stressful, robbing you of time and the joy of life.