



About Bankruptcy

If you owe more than you can repay, you may have the option of declaring bankruptcy. Bankruptcy is a legal process that involves seeking the help of the U.S. Federal Court to release or “discharge” some of your debts and get a fresh start financially. In recent years, bankruptcy filings have reached an all-time high.

Bankruptcy is a serious matter that can have significant, long-lasting consequences. While it may be an option, it’s not an “easy way out.” Before considering the option of bankruptcy:

- Talk to your creditors to see if they will agree to extend your payment schedule, allow you to skip a payment, or make some other reasonable repayment alternative. Discuss any possible solutions.
- Consult with a qualified credit or debt counselor. Bankruptcy law is complicated and changing. In recent years, the U.S. Congress has been reviewing and updating bankruptcy laws and state laws that affect bankruptcy. These laws vary, so it’s essential to get professional counseling about your options.

Remember, if you file:

- You will have legal and court costs.
- If you have co-signed on a loan, your co-signer will remain liable for the full amount of a co-signed debt unless you make other repayment arrangements with the court.
- You cannot claim any debts that you fraudulently took on, or incurred, knowing that you would be unable to pay them back. (Don’t think that you can take an expensive trip around the world and then declare bankruptcy!)
- A bankruptcy will stay on your credit history for up to 10 years. It may lower your credit score, causing lenders to charge you higher interest rates in the future.

Depending on your personal financial situation and the federal and state laws that apply, declaring bankruptcy may eliminate some of your debts or allow you to repay just a portion of each debt you owe. The court may allow you to keep some of your assets in the process. Bankruptcy usually does not erase child support, alimony, fines, some taxes, and most student loan obligations.

In a typical bankruptcy scenario, a debtor files a Voluntary Bankruptcy claiming the inability to repay his or her debts. A bankruptcy judge then decides whether or not a debtor may declare bankruptcy. If the bankruptcy case proceeds, the judge may decide to release the debtor from the obligation to repay some of his or her debts. This is known as “discharging” debts. Once a person’s bankruptcy case has been completed, none of the debtor’s former creditors may pursue the debtor for his or her discharged debts.

However, if the debtor has defaulted on a secured loan—a loan in which the creditor has a legal claim, called a lien interest, in assets belonging to the borrower (such as a car, house, or other collateral) to ensure payment—the creditor may still be able to take possession of the collateral even though the debt was discharged.

About Bankruptcy (continued)

There are several types of bankruptcy. Each is known by the chapter of the bankruptcy law that describes it. Two of the most common types are Chapter 13 and Chapter 7.

- In Chapter 13 bankruptcy, the borrower submits a repayment plan to the court and promises to make partial payments to creditors over a period of three to five years. If you have a regular income and limited debt, Chapter 13 allows you to keep your property that you otherwise might lose, provided you continue to make your payments under the repayment plan.
- In Chapter 7 bankruptcy, the debtor surrenders his or her assets to an individual called a “trustee.” The trustee sells the debtor’s assets and gives the money to the creditors. The debtor may be allowed to keep some assets, such as a car, work-related tools, and basic household furnishings. Under the new bankruptcy law you can receive a discharge of your debts under Chapter 7 only once every eight years.

This summary is a very simplified explanation of the bankruptcy laws and procedure. However, it is by no means all encompassing. This summary does not constitute legal advice or the views of Wells Fargo & Company and should not be relied upon as such. Should anyone reading this summary contemplate filing bankruptcy, they should consult qualified legal counsel. Each bankruptcy is unique and no summary can adequately address all possible fact situations.

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