

# A way of banking on debt relief

MARIA TURNBULL, A SALVATION ARMY MONEYCARE FINANCIAL COUNSELLOR, DISCUSSES THE RAMIFICATIONS OF VOLUNTARY BANKRUPTCY.

**BANKRUPTCY IS OFTEN** viewed as a last resort that can assist people when no alternative is available. Bankruptcy may help people regain some control over their financial situation, it may relieve pressure when creditors or debt collectors reject realistic repayment proposals, and it may provide relief when there are significant psychological or emotional issues to take into account.

Careful consideration should be given to all the consequences of voluntary bankruptcy before taking this step. Information can be obtained from a financial counsellor, lawyer or from Australian Financial Security Authority (AFSA), previously known as Insolvency Trustee Service Australia (ITSA).

## What is bankruptcy?

Bankruptcy is a temporary change in your financial legal status. Control of financial affairs is taken over by a trustee. Bankruptcy usually lasts for three years and one day, although this time may be extended. This is likely to happen if you do not cooperate with the trustee and fail to disclose information, or fail to pay agreed contributions.

During bankruptcy the trustee has a responsibility to use assets and income to pay debts. However, some assets and income are protected and cannot be used to pay debts and, at the end of the bankruptcy period, most outstanding debts will be wiped. There are restrictions placed on a bankrupt person during the bankruptcy.

## Bankruptcy procedures

You may become bankrupt in one of two ways. The first way is through a creditor's petition.

A creditor can force you to become bankrupt if the debt is more than \$5,000 and they have a court judgement against you. They can apply to the court for a creditor's petition.

The second is through a debtor's petition. You can choose to become voluntarily bankrupt by filing a debtor's petition with the AFSA.

## Will bankruptcy get rid of all debts?

Not all debts will be wiped by bankruptcy. Debts that still have to be paid after bankruptcy ends include fines

issued by a court, child support and maintenance payments, some Commonwealth Government debts such as student loans and HECS fees (Higher Education Contribution Scheme), debts incurred by fraud, and debts incurred after the date you became bankrupt.

## Other issues that may affect someone who bankrupts:

- A creditor cannot continue to chase a debt after you have declared bankruptcy.
- Exceptions apply with secured debts.
- If the income exceeds the threshold (as indicated by AFSA), contributions towards debts may be required.
- Jointly-owned property is not protected in bankruptcy.
- Transferred property may not be protected.
- Bankruptcy stays on a credit file for seven years.
- Overseas travel may be difficult.

Other options should be considered before entering into bankruptcy and you should act sooner rather than later. Seek an opinion from a free financial counselling service.

**Next month:** Identifying and dealing with scams.



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