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# About Debts and Bankruptcy

The continued sluggish economy has been taking its toll on many people. The number of bankruptcies is on the rise. The American Bankruptcy Institute has reported that this year, the number of new personal bankruptcies is approaching 1.6 million, the number just before Congress introduced the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) in 2005.

Both individuals and businesses can file for bankruptcy, which is a right of every citizen under the law. Most people file for bankruptcy because of their heavy debt load, and to prevent creditors from taking possession of their assets. As far as bankruptcy is concerned, there are essentially three types of debt – unsecured non-priority debts, unsecured priority debts and secured debts.

In the bankruptcy procedure, the first type of debt to be discharged would be the unsecured non-priority debts. These include medical fees, credit card debts etc. A large amount of this type of debt is a main reason for bankruptcy filings. Unsecured priority debts include alimony, child support, fines and penalties and most taxes. These debts are generally not dischargeable. And finally secured debts are those that are secured by some kind of asset, such as mortgages (secured by the property), leases (secured by the asset) and vehicle loans (secured by the vehicle).   Secured debts will normally be discharged by the creditor taking possession of the security.

The two most common types of bankruptcies for individuals and businesses are Chapter 7 and Chapter 13 bankruptcies, so named according to the chapters of the bankruptcy code.  Both will immediately stop foreclosures and repossessions of secured property.  Both require all property (vehicles, landed properties, savings and checking accounts, retirement accounts, boats, clothing, etc.) and its value is reported to the bankruptcy trustee.

Chapter 13 bankruptcy (also known as reorganization bankruptcy), the debtor is allowed to reorganize and clear all priority debts and back payments owed on secured debt over a 36-to 60-month period payment plan.  On the other hand, a Chapter 7 bankruptcy (also known as liquidation bankruptcy) does not require a payment plan.  This is where the assets of the debtor are liquidated to pay off his debts and in most cases the bankruptcy is concluded in as little as four months.   But since the enforcement of the BAPCPA, the requirement to qualify to apply for Chapter 7 bankruptcy is you must pass a means test to determine whether your income is lower than the mean income set by the US Department of Justice.

To decide which type of bankruptcy to file for, you should consult an experienced tax attorney.  Call us at (813) 200-4133 for a free consultation.