

Credit Card Use Before & After Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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The use of credit cards has become a normal part of life for most people. For many of my clients, credit cards have been used for groceries, medical bills, and other necessities of life. The result is a huge amount of debt that many are in no position to ever pay off. I see clients on a fairly regular basis with more than \$100,000 in credit card debt. This type of debt almost always leads to a bankruptcy filing. Once the decision to file for bankruptcy is made it is necessary to evaluate and alter credit card use before the bankruptcy is filed and to understand how the bankruptcy filing will impact your ability to use credit cards going forward.

Credit Card Use Prior To Filing Bankruptcy

Once you have made the decision to file for bankruptcy you should stop all credit card use. The bankruptcy code provides that some debts incurred immediately prior to filing bankruptcy can be considered non-dischargeable, meaning that they will not be eliminated in your bankruptcy case.

Credit Card Purchases Within 90 Days Prior to Filing Bankruptcy: Credit card purchases for luxury items that total more than \$600 within the 90 days prior to your bankruptcy filing are presumed to be non-dischargeable. The bankruptcy code defines “luxury item” to be goods or services that are not reasonably necessary for the support or maintenance of your household. What does this mean? Charges made on the card for gas, groceries, or diapers are likely not going to get an objection; charges for a new flat screen or charges for your Mexican cruise likely will.

It is important to note that the law says that such charges are “presumed” to be non-dischargeable, meaning that the credit card company would have to seek to have the debt declared non-dischargeable by the bankruptcy court.

Cash Advances Made Within 70 Days Prior to Filing Bankruptcy: Any cash advance you take on your credit card over \$875 prior to filing for bankruptcy is presumed to be non-dischargeable. This includes things such as using credit card checks. While there is some wiggle room when it comes to purchasing “luxury goods,” if you take a cash advance within the 70 days prior to filing bankruptcy and the credit card objects, we will lose that battle. Again, the credit card company will have to make an appearance in your bankruptcy and object to that specific debt being discharged.

There are basically two ways to deal with credit card issues prior to filing (1) don't buy anything or take a cash advance from a credit card; and/or (2) wait to file your bankruptcy case so that you are at least 90 days from your last credit card purchase/advance.

Credit Card Use After Bankruptcy

A common question I get is if there is a credit card where you are either current on the payments or there is currently no money owed can that card be kept open. My answer is don't plan on it. With the tightening of credit standards I have not seen a credit card company agree to keep a card active after bankruptcy in years. Even if you don't owe any money on a particular card, it will likely be closed by the lender.

For many this creates a panic because a credit card is necessary for work or travel. You will be offered credit cards after filing bankruptcy, but these cards will have very high interest rates and I wouldn't recommend them. Another option is a simple debit card or a secured credit card. Secured credit cards report to the credit bureaus like a regular credit card, but they require a deposit to be put down in the amount of credit you want. For instance, if you want a credit card with a \$1,000 limit, you are going to have to put down a \$1,000 deposit which the credit card company will hold as collateral to be used in the event you default on your payment. There is a good listing of secured credit cards offered at www.bankrate.com.

If credit cards are causing you problems, a bankruptcy, and particularly a chapter 7 bankruptcy, can get rid of your credit card debt and help you get a fresh start. I offer a free bankruptcy consultation to discuss your specific situation.

Arizona bankruptcy attorney John Skiba can be reached at 480-464-1111.