

Bankruptcy and Divorce - The Short Version

Bankruptcy and divorce are often contemplated at about the same time. Here's the short version of answers to common questions involving bankruptcy and divorce.

- *Will bankruptcy get rid of my spousal support debts?*

No. Bankruptcy won't get rid of debts you owe to your spouse, former spouse, or child that are owed for alimony, support, or maintenance from a divorce or separation agreement.

- *Will bankruptcy get rid of my obligations for a property settlement?*

The answer depends on the type of bankruptcy. In a Chapter 7 bankruptcy (the one that gets rid of your unsecured debts (for example, credit card debts, but not house or car loans) quickly, property settlement obligations are not discharged (gotten rid of), but remain in place. In a Chapter 13 bankruptcy (the payment-plan bankruptcy), non-support-related payments are discharged, for example the obligation to pay a debt to a third party. However, the actual division of community property (California) is not affected at all. So you have to be careful to distinguish between these things. As they say, don't try this at home.

- *Should I file bankruptcy before or after getting a divorce?*

There's no clear answer to this except "it depends". Of course, if there's a pressing need to file bankruptcy, for example because of a foreclosure or wage garnishment, it might be best to file bankruptcy right away. But having a final settlement order first might clear up uncertainties in the bankruptcy about assets and exemptions. Also, being single instead of married might help pass the "Means Test", intended as an income barrier to getting a Chapter 7 bankruptcy.

I said this was the short version, so I'll stop here and just say that the issues surrounding bankruptcy and divorce need consideration by a qualified bankruptcy attorney, possibly in conjunction with a divorce attorney.

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