

The age old question that gets put to any bankruptcy attorney. The reasons for this question are endless, but most of the time it is because one spouse does not want the other spouse to know they are filing bankruptcy, or they want to protect the other spouses credit rating. Whatever your reason for this question, the short answer is no, your spouse does not have to file bankruptcy if you are. There is nothing in the bankruptcy code that requires married couples to file jointly. Of course it may be a really bad idea to leave your spouse out.

When you receive your discharge from the bankruptcy court, your liability on the debt is gone and your creditors cannot collect from you. But if you spouse co-signed on the debt, guess what? The creditors will be coming after your spouse. They can pursue a judgment against your spouse, they can garnish your spouse's wages, they can call and harass your spouse. So what did you gain by not including your spouse? Nothing. Your spouse's liability on the debt will remain.

The same goes for a mortgage that you want to walk away from in bankruptcy. If your spouse signed for the mortgage, your liability is discharged, but your spouse's liability remains. The same goes for a car loan, bank loan, and for most other loans.

Whether you file a [Chapter 7](#) or a [Chapter 13](#), and even though your spouse is not filing, you will have to disclose your household income and expenses in your bankruptcy petition. That means you will have to disclose the income your spouse earns and the expenses your spouse pays. That is the way the law is written. But your spouse will not be listed on the petition and their name will not be disclosed on the petition. And your spouse will not have to attend the [341 meeting](#).

So what does this all mean? Always check to see if your spouse has co-signed on those credit cards, mortgages, car loans, or any other loan you have. If they have, it is a good idea to file bankruptcy jointly, so as to discharge the liability your spouse will face on these loans.

Here is another point: Even if your spouse did not co-sign on any loans and did not open the credit card account jointly with you, it is still a good idea to file jointly. Why? Because if your spouse has a significant amount of debt and is struggling to keep up with the payments, it will cost you less money to file jointly. You will only have to pay one set of filing fees, one set of attorney fees (with me, it costs the same to file jointly as it does a single person), and one set of credit counseling/debtor education course fee (to be discussed in a future blog). If you file today, and your spouse decides to file a month later, then it will cost you double what it would have cost you to file jointly. That is something to think about.

There are so many more reasons why it would be better to file jointly that I could go on forever. If you have a situation that was not covered here, call your [Detroit Bankruptcy Lawyers](#) at (586) 439-4297, Extension 0, and set up your free consultation and talk to me about your situation. As always, if bankruptcy is not an option for you and/or your spouse, I will be the first to tell you.