

Q&A: Should We File Bankruptcy Before Or After Divorce?

Many times, couples facing personal relationship problems are also struggling with financial stress within the marriage. This is a “chicken or the egg” issue, but according to Divorce.com, the [number one reason couples get divorced is financial issues](#). There is a very strong relationship between financial stress and marital breakdown. From personal experience, I have observed that this strain is even more pronounced in marriages where one spouse earns significantly more than the other.

As I have mentioned previously, [bankruptcy can be rehabilitative](#) and may be viewed as the last collective act to not only get out of debt, but also to save the marriage. Maybe, without the money issues and financial strain, the personal issues you are having with your spouse can be resolved.

Aside from the potential to rehabilitate the relationship, filing bankruptcy before divorce has other potential benefits. It is extremely rare that I would advise clients to wait until after divorce to file bankruptcy. Lets explore.

Filing Bankruptcy Before Divorce: Smooth and Clean

In the vast majority of cases, you (and your spouse) should get out of debt before filing for divorce. This almost always makes sense and here is why:

- When you file a joint bankruptcy, you pay one court filing fee instead of two individual filing fees;
- Like the court filing fee, when you file a joint bankruptcy petition you will pay one attorney fee and these savings can be significant;
- All debts (joint and individual) will be discharged in the bankruptcy. There will be no lingering joint debt that the non-filing spouse will be responsible for;
- The larger household size could help you pass the means test and enable you to qualify for [Chapter 7 Bankruptcy](#) (see below, as the reverse is also true);
- The entire divorce settlement process becomes much cleaner and easier with no debt obligations to distribute.

If you and your spouse can come together, it makes sense both financially and personally to file prior to instituting a divorce action. You are both working towards a fresh start and filing bankruptcy before divorce will help to ensure that happens.

Filing Bankruptcy After Divorce: Rough and Messy

As I said, I almost always advise cooperative clients to work out their debt issues prior to filing for divorce. Here is why it almost never makes sense to file bankruptcy after:

In addition to the above points, filing bankruptcy after divorce could negatively impact your rights to certain property exemptions.

Some people believe that filing bankruptcy after divorce will enable them to discharge their support obligations through the bankruptcy process. This could not be further from the truth and filing for bankruptcy will not shelter you from maintenance or child support payments.

Work Together and Work Things out

All too often, couples wait until it is too late and the marriage is beyond repair. If you are having financial difficulty and struggling with debt, [contact](#) an experienced bankruptcy lawyer immediately to explore your options.

Bankruptcy and Divorce can be painful and agonizing for the individuals involved. The statistics show that it is usually the financial woes that lead to the breakdown of the personal relationship. Working together to solve your financial issues through the bankruptcy process may be the ultimate redemption for your marriage.