



## **Mistakes to Avoid Before You File Bankruptcy**

Filing for bankruptcy is the most extreme of financial makeovers. It should be a last resort and not entered into without a full knowledge of what is required. Bankruptcy is not an endeavor to be entered into without full knowledge. Do your best to plan your bankruptcy in advance of filing to reach the best desired outcome for you and your family.

### **1. Do not use your credit cards once you've made your decision to file.**

Once you've made your decision to file bankruptcy, do not incur additional debt that you don't intend to repay. You could lose the right to cancel the debt in bankruptcy. One of the worse things you can do before filing bankruptcy is run up a bunch of credit card debt assuming it will be discharged in bankruptcy. The bankruptcy changes enacted in 2005 lowered the threshold on luxury purchases to \$500 and extended the abuse period to 90 days prior to filing. Purchases in this abuse period are asking for extra scrutiny.

### **2. Do not repay family members**

Family members cannot be treated better than other creditors. In the eyes of the law, relatives have the same legal status as other creditors and you are not permitted to treat relatives differently than other creditors. In some circumstances, the trustee can reclaim the amount paid to the family member for distribution to all creditors in the same class.

### **3. Do not liquidate your retirement account**

Retirement accounts are generally exempt property in a bankruptcy no matter which chapter you file. It is not necessary that you liquidate your retirement funds prior to filing. Some liquidate and still owe substantial sums. Early withdrawal of these funds makes you liable for penalties and taxes which may not be discharged in bankruptcy.

### **4. Do not transfer property out of your name**

Don't transfer property out of your name prior to filing bankruptcy. The Trustee can undo property transfers if a fair price is not received or if made with intent to defraud, hinder or delay a creditor. This includes transfers to friends or relatives also.

### **5. Do not use your equity line of credit to pay off debt**

Under most state and federal law, you have the opportunity to claim an exemption for the equity in your home. This means you can go through bankruptcy, and still have this equity. If you use your equity line to pay off debt or take out a second mortgage, you may be converting debt which would have been discharged in bankruptcy into debt which you will still have to pay in order to keep your home.

### **6. Always tell your attorney the truth and fully disclose all of your concerns.**

The courts take the rules very seriously and can file criminal charges if intentional fraud is committed. Even if they don't go that far, they can refuse to discharge a particular debt, or dismiss the entire case. Many of the issues you are concerned about can be addressed within the provisions of the bankruptcy code. Speak openly and honestly with your attorney regarding all financial issues. Remember, your attorney is an advocate for your desired outcomes. They can help you more when you make a full disclosure.