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BAPCPA Tax Law Leaves More in Debt

In 2005, the government implemented a law called the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) in an effort to curb the abuse of filing for bankruptcy simply to cancel out debts without serious efforts to repay them. The BAPCPA and other reform measures made bankruptcy requirements more stringent and effectively ruled out filing for Chapter 7 liquidation bankruptcy for most people. One of the measures put in force was the means test in which an income limit for each state was set over which you could not qualify for Chapter 7 bankruptcy and must apply for Chapter 13 reorganization bankruptcy instead (for individual filers).

Hence, the clear objective of the BAPCPA was to curtail bankruptcy abuse and reduce the number of bankruptcies by making it such that only those in genuine need of bankruptcy need apply.

But what has happened since then?

<http://tampabankruptcy.pro/blog/>

The statistics show that since 2005, the number of bankruptcies nationwide has continued its upward trend. According to the American Bankruptcy Institute, across the United States personal bankruptcies rose above 10 million cases which represented a 9% increase in 2010. The number of bankruptcies this year is expected to attain if not exceed pre-2005 levels. What's more, since the BAPCPA was enacted, bankruptcy lawyers' fees have more than doubled and the online credit counseling method has become the norm.

According to Chief Judge James Gregg, the means test was 'sloppy' and he has expressed his personal frustration at the reform measures that were largely shaped by lobbyists and was full of ambiguity. Thus last month, Congress tried to make amendments to the 2005 reforms with the Bankruptcy Technical Corrections Act 2010 that attempts to correct spelling errors, and fix bad cross references and so on.

But in doing so, they continued to leave ambiguities. For example, the deadline for compulsory credit counseling is not clear - is it the day before filing for bankruptcy or the day of filing?

Whilst credit counseling is important, there are other more pressing issues that precipitated the need for bankruptcy. Credit counseling is primarily for those who have wantonly overspent on their credit but more folks in financial stress came into it due to layoffs, health issues and foreclosures.

Chief Judge feels that it is imperative that bankruptcy lawyers update themselves on the current laws by going to seminars at least yearly.

If you are struggling with debt and need to file for bankruptcy, call us at (813) 200 4133 for a free consultation.