

Bankruptcy Alternatives: A Bankruptcy Lawyer's Take On Ways to Deal With Debt Other Than Through Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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No one wants to file for bankruptcy. Bankruptcy is the last option for most people, and probably rightly so. By the time people come to my office to meet with me most have looked into other options as they struggled along trying to keep up with monthly minimum payments. There are alternatives to bankruptcy and believe it or not I do go over them with clients and have in fact sent clients away because bankruptcy was not their best option.

There are really three alternatives: debt settlement, debt modification, and continuing with monthly payments.

Debt Settlement

You can settle your debts with the creditor for a lesser amount. When talking about credit card debts, typically the further behind you are the better settlement you will get. Most credit card companies will charge-off or write-off the debt you owe once you become 120 days past due. This does not mean, however, that they cannot continue to try and collect money from you. And the more likely scenario is that they will sell this debt to a third party who will then pick up on the collection efforts where the original company left off.

From the credit card companies' view the more delinquent the account the less likely that they are going to get paid. You can use this reality to your advantage and offer to pay less than what is owed in an attempt to settle your debt. If you are 4 months or more behind you can likely settle your debt for 35% - 60% of what is currently owed.

The catch is that you must be able to pay whatever amount is agreed to immediately. For example, if you owe \$10,000 on a credit card and the credit card provider has agreed to a \$5,000 settlement, you will have to pay the full \$5,000 now in order for the settlement to go forward. I have not seen a credit card company that is will to discount what is paid **and** allow you to pay it over time.

The important part of debt settlement is that if you have more than one credit card that you are trying to settle you need to get them all on board for the settlement to be effective. It is not a huge benefit to you if only one of your five credit cards agree to a settlement. The usual result of a situation like that is you pay one credit card the settlement and then end up filing bankruptcy anyway.

Beware of Debt Settlement Companies

One word of caution – beware of debt settlement companies. Debt settlement companies offer to help you settle your debts and agree to do the negotiating for you. They understand the process described above – that your creditors will settle for less than what is owed so long as it is paid in a lump sum. The typical debt settlement company will set up a monthly payment that you will pay to them and then they agree to settle your debts.

What they are really doing is taking a portion of your monthly payment as their fee and then putting the rest in a savings-type account until there is sufficient money accumulated that they can approach your creditors and try to settle the debt with the money that has been paid. Two problems with this: (1) you can do this yourself. All the debt settlement company is really doing is charging you a fee to put your money in a savings account; and (2), even though you are paying a company to settle your debts, this does not mean that your creditors are going to stop their collection efforts against you.

I have numerous clients who signed up with a debt settlement company and religiously made their monthly payment only to be served with a lawsuit by one of their creditors for non-payment. It will take months for the debt settlement company to save up enough to settle your debts, in the meantime your creditors will be coming after you.

Debt Modification

A second alternative is debt modification. This is where you work directly with your creditors to get them to lower interest rates, forgive some of the balance, or to simply lower the monthly payment. We are seeing a lot of this with mortgage loan modifications but it can be done with credit cards as well. In fact, once you become severely delinquent your credit card company may even propose a modification to you where interest is eliminated for a period of time or a lower payment arrangement is met.

If your debt load is not that substantial this may be all you need to deal with your debt issues.

Carry On

The third and most obvious way to deal with your debt is to continue making the monthly payments. The equally obvious problem with this tactic is that many people have suffered a job loss or other set back that makes it difficult or impossible to make the monthly payments. Further, if you are not making your monthly payments or only partial payments you may eventually get sued. Once a judgment has been entered against you there is the risk of having your wages garnished.

Bankruptcy

Some can deal with the debt problems with the above alternatives. If your debt load is substantial, or if you can no longer make your monthly minimums, bankruptcy is likely your best option. Bankruptcy, and particularly chapter 7 bankruptcy, has the benefit of completely eliminating debt rather than just settling it, and once your bankruptcy case is filed the bankruptcy court enters an order that stops all collections efforts against you. This means that you won't get sued while going through bankruptcy nor will your creditors be permitted to call you on the phone or send demand letters.

Bankruptcy definitely has its own set of consequences, but often they outweigh the problems associated with bankruptcy alternatives.

I offer a free bankruptcy consultation where we can discuss your specific situation and determine if bankruptcy is a good option.

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