



## **4 Reasons to File Your Bankruptcy Sooner Rather Than Later**

**By John Skiba, Arizona Bankruptcy Attorney**

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Often clients tell me that it took a long time for them to finally make an appointment to see me about their bankruptcy. No one *wants* to file for bankruptcy, but sometimes it becomes necessary. The problem I often see is that people will wait too long to file their bankruptcy case, putting themselves in a more difficult spot than they otherwise would have been. Along those lines, here are four reasons to file your bankruptcy sooner than later:

### **#1 You May Not Qualify for a Chapter 7 Bankruptcy if You Wait**

In order to file a Chapter 7 bankruptcy you must qualify under a means test. We are required to look at your income over the prior six months and take an average. We then compare what you earn to what the median income for a family of your size in Arizona makes. If you make about the same or less than the typical Arizona family of your size you will qualify for a Chapter 7 bankruptcy. If you make significantly more you will likely be required to file a Chapter 13 bankruptcy. If you are currently experiencing lower pay than you have in the past, or if you anticipate that your pay will be going up in the near future, it is often in your best interest to get your case filed sooner while you still qualify for a Chapter 7 bankruptcy. Waiting may result in your income increasing and forcing you into a Chapter 13 bankruptcy.

### **#2 Delay Gives Your Creditors Time to Increase Collection Efforts Against You**

If you are currently not paying certain bills such as credit cards, the collection efforts will continue to increase in intensity as time goes on. Most creditors will start the debt collection process by making a few phone calls or sending letters. If you don't pay long enough you may lose your home to foreclosure, your car may get repossessed, and the credit card company may eventually sue you. If you get sued you may end getting your bank accounts and wages garnished. Filing your bankruptcy at the beginning of the collection process reduces the risk of losing assets or having your wages garnished. Further, when your bankruptcy case is filed the court enters an order that stops all collection efforts against you; this means you won't have to deal with the endless collection calls either.

### **#3 Things Change**

Sometimes I will meet with a client and then not hear from them for several months. When they return they are ready to move forward with their bankruptcy case, however I will then learn that their situation

has changed slightly, that they have transferred an asset, or became entitled to an inheritance, or a countless list of other issues that will cause problems in their bankruptcy case. By meeting with a bankruptcy attorney early on in the process you can put together a plan as to when your case will be filed and some of the do's and don'ts prior to filing your bankruptcy case.

#### **#4 Don't Deplete Your Retirement Accounts Paying Debts That Will Be Discharged in Bankruptcy**

I see this way too often. Person comes in who has significant credit card debt - in the \$80,000 - \$100,000 range. And in hopes of avoiding bankruptcy they have been making payments here and there by raiding their 401(k) or IRA account. For most that are carrying substantial credit card debt the reality of ever being able to pay that off simply isn't there without some kind of large windfall. It is painful to see someone drain their retirement accounts trying to pay down credit cards and then still end up in bankruptcy.

It is important to understand that retirement accounts like a 401(k) and IRA accounts are exempt during the bankruptcy process. This means that neither your creditors nor the bankruptcy court can take those funds. Equally important to understand is that in a Chapter 7 bankruptcy your credit card will be discharged/eliminated completely. That is why if you are dealing with large amounts of credit card debt you should meet with a bankruptcy attorney early on to determine whether bankruptcy is a good option and at the same time save your retirement for retirement.

I offer free bankruptcy consultations for this very purpose - to help clients in determining early on if bankruptcy is a good option. I can be reached at (480) 420-4028 or via email at [john@skibalaw.com](mailto:john@skibalaw.com).