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bankruptcy – how to avoid it

It's a depressing, but not entirely surprising sign of the times that personal bankruptcies are on the rise. Going bankrupt no longer carries quite the stigma it used to. It can, in fact, offer a fresh start, providing instant relief from the trail of creditors banging at your door. However bankruptcy does leave a black mark on your credit record - and reputation - and should be avoided if possible.

Last financial year around 27,500 Australians went bankrupt. New South Wales had the highest number of bankruptcies (10,500), while the biggest jump occurred in West Australia, which now has 16% more bankrupts.

Bankruptcy normally lasts for three years - a period that can prove very challenging to live through. You can only own assets up to a certain value (the rest are sold to pay off your debts) and if you earn over \$41,800 annually (more if you have dependents) any excess goes towards paying off your creditors.

A permanent record of bankruptcy is kept by the Insolvency and Trustee Service Australia (ITSA), the federal government's bankruptcy

trustee service. The database is open to anyone, including lenders, so a past bankruptcy can come back to haunt you later on especially if you apply for a loan or credit card.

Thankfully there are steps you can take that will, hopefully, bypass bankruptcy.

The first involves approaching your creditors to negotiate a repayment plan. A useful source of information here is a free booklet entitled 'Dealing with debt' that sets out your rights and responsibilities as a debtor. It can be downloaded from the consumer website of the Australian Securities and Investments Commission (www.fido.gov.au) or contact ASIC on 1300 300 630.

It's also worth speaking to a financial counselor. Many offer a free service, providing help with budgeting and even contacting creditors on your behalf. For contact details in your state or territory, log onto the ITSA website (www.itsa.gov.au, click on 'Debtors').

Beyond these steps are several formal options. First up is a 'debt agreement'. This is where you propose a repayment plan to your creditors showing how you'll repay the debts. If it

gets the thumbs up, creditors can't continue to harass you for money. More importantly, the interest meter is switched off. You only have to repay the money owing at the time of the agreement without the worry of mounting interest charges.

Debt agreements are only an option if your annual after-tax income is below \$62,735 and the total of your unsecured debts is \$83,647. If your income or debts exceed these limits, you may need to consider a Personal Insolvency Agreement.

Put simply, this involves appointing a trustee (this can be a solicitor) to take control of your assets and meet with your creditors to decide who gets what. At this stage, a disgruntled creditor can still have you declared bankrupt.

It's all serious stuff and definitely worth avoiding. That said, plenty of Australians have survived the bankruptcy wringer and emerged stronger and wiser as a result. For more information on what bankruptcy involves, take a look at the ITSA website.

Paul Clitheroe's 'Making Money' for the week beginning 20 July 2009



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