

## **TEN MYTHS ABOUT BANKRUPTCY**

### **1. Everyone will know if I file for bankruptcy.**

Unless you are a prominent person or a major corporation and the filing is picked up by the media, the chances are very good that the only people who will know about a filing are your creditors. While it is true that bankruptcy is a public legal proceeding, your name will not be published in the paper, and your friends and neighbors will not be notified (unless you owe them money).

### **2. I will have to give up all of my property to get bankruptcy relief.**

This is the misconception that keeps many people who really should file for bankruptcy from doing it. If you have lived in Texas for two years or more, there are exemptions that protect certain kinds of assets, such as your house, your car, money in qualified retirement plans, household goods and clothing. If you have a mortgage or a car loan, you can keep your house and your car as long as you keep making the payments. Virtually all of the individuals that file for bankruptcy with our office get to keep all of their property.

### **3. I will never get credit again.**

It will not be long before you will be getting credit card offers again. They will just be from lenders that will charge high interest rates. After filing for bankruptcy, you should try to stay away from credit, but if you do need an automobile, for example, you will be able to get credit if you are employed and can show the ability to make the payments.

### **4. All of my debts will be wiped out in Chapter 7 bankruptcy.**

Certain types of debts cannot be discharged (erased). They include child support, most taxes, student loans, and debts incurred as the result of fraud.

### **5. If I am married, both of us have to file for bankruptcy.**

Depending on your circumstances, it may be advisable for you to file for bankruptcy relief without your spouse. For example, it is not uncommon for one spouse to have a significant amount of debt in their name only. However, if spouses have debts they want to discharge that they are both liable for, they probably should file together. Otherwise, the creditor will simply demand payment for the entire amount from the spouse who did not file. The cost is the same whether one spouse or both file.

**6. Only deadbeats file for bankruptcy.**

Almost all bankruptcy cases are filed by people that have had a life-changing experience, such as a divorce, the loss of a job or a serious illness. They have struggled to pay their bills for months, or even years, and just keep falling further behind. Most individuals delay filing for bankruptcy relief and do so only as a last resort.

**7. I do not want to include certain creditors in my filing because it is important to me to pay them back someday, and if the debt is discharged, I cannot ever repay them.**

Bankruptcy does not prevent you from paying anyone. You are no longer obligated to repay your creditors after you file for bankruptcy, but you always have that opportunity. If your conscience will not let you sleep because you did not pay your debts, there is nothing in the bankruptcy code that prevents you from doing so, once you are back on your feet. But, bankruptcy is an all-or-nothing deal, so you must disclose all of your creditors to the Court.

**8. I can max out all my credit cards, file for bankruptcy and never pay for the things I bought.**

Do not use your credit cards once you have made your decision to file bankruptcy. Consumer debts incurred for luxury goods and services owed to single creditor in excess of \$500.00 within 90 days before your case is filed are presumed to be nondischargeable and may not be wiped out by a bankruptcy. Cash advances of more than \$750.00 within 70 days of filing are also presumed to be nondischargeable and may not be wiped out by a bankruptcy. You do not want to jeopardize your “fresh start” by running up your credit cards.

**9. You cannot ever get rid of back taxes through bankruptcy.**

Taxes are difficult to discharge in bankruptcy. However, you may be able to discharge taxes if you filed the returns at least two years ago and if the taxes you owe are at least three years old.

**10. I can repay debts owed to a family member without paying back my other creditors.**

With regard to repaying debts, you cannot treat your family member any better than you do your other creditors. In fact, a bankruptcy trustee can reclaim any amount repaid to a family member within one year before you file for bankruptcy.