When Bankruptcy May Be the Wrong Solution

There are at least seven situations in which bankruptcy may not be the right option for you:

1. If all your assets and income are exempt, then you are “collection-proof.” (See Chapter 21 [1] for more information about what it means to be “collection-proof.”) In that case, most creditors can do virtually nothing to harm you even if you don’t filing bankruptcy. At which point, there may not be a compelling reason to file for bankruptcy. Waiting until you are no longer collection-proof is generally more prudent than filing right away, unless you are concerned with a home mortgage, car loan, or other secured loan.

2. The debts at issue are secured by your property—such as home mortgages or car loans—and you do not have sufficient income to keep up payments while also catching up on past-due amounts. Bankruptcy may not help you when the long-term expense of keeping your home or car exceeds your long-term income.

3. You have valuable assets that are not exempt in the bankruptcy process and you do not want to lose these assets. A chapter 13 filing may still help if you can afford the necessary payments.

4. Your main reason for filing bankruptcy is to discharge a student loan, alimony or child support obligations, court restitution orders, criminal fines, or some taxes. These obligations are difficult if not impossible to discharge in bankruptcy.

5. You have only a few debts and strong defenses for each. Instead of filing for bankruptcy, you can raise these defenses aggressively. Usually the disputes can be settled out of court in an acceptable way. If they are not settled, you can use bankruptcy later.

6. Because of a prior bankruptcy, you cannot receive a discharge in a chapter 7 bankruptcy. However, in most cases, a chapter 13 petition can still be filed.

7. You can afford to pay all of your current debts without hardship.

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