

Bankruptcy

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From Crown Financial Ministries

Biblical perspective on bankruptcy

by Crown Financial Ministries

Sadly, for all kinds of reasons, people are declaring bankruptcy in record numbers. This year, one out of every 70 households will go bankrupt. If this trend were to continue, it means that during the next ten years, one of every seven households in the U.S. would declare bankruptcy.

People used to avoid bankruptcy if at all possible because of the stigma of financial failure. Today, however, it has become more socially acceptable and people are filing for it in droves.

God's Perspective on Bankruptcy

The Bible never prohibits bankruptcy, but it does discourage it. Psalm 37:21 reads, "*The wicked borrow and do not repay, but the righteous give generously.*" We should make every effort to avoid bankruptcy. However, we believe bankruptcy to be permissible for the following reasons.

1. A creditor forces the borrower into bankruptcy.
2. The borrower experiences such extreme financial difficulties that there is no option. There are occasions when bankruptcy is the only viable option when the financial challenges become too extreme to reverse. That option needs to be exercised only after all others have been explored.
3. The emotional health of the borrower is at stake.
If the debtor's emotional health is at stake because of inability to cope with the pressure of aggressive creditors, bankruptcy can be an option.

Here's an example of reason three. A husband deserts his family, and leaves behind bills and debts that were more than his wife can possibly afford. The emotional traumas of the unwanted divorce, coupled with harassment from unsympathetic creditors, are too much for her to bear. She needs the emotional and financial relief bankruptcy provides.

The Downside of Bankruptcy

Declaring bankruptcy should not be a cavalier decision. Among the consequences for those who resort to it are the facts that it remains on their credit report for ten years, and it often impairs their ability to obtain future credit at reasonable interest rates. Potential employers and landlords are also likely to learn of a past bankruptcy. It can haunt people for some time, and although it provides relief, it is not exactly the fresh start that some advertise.

Bankruptcy is a relatively complicated legal procedure. Since it is a court-monitored activity, several people are involved including the bankruptcy judge, a trustee, and the person's creditors. Depending upon state law and the form of bankruptcy chosen, people may get to keep some or most of their assets. Some states, for example, allow people to keep their clothes and a car. Other states let them keep their home, car, and other assets. Bankruptcy stops most but not all garnishments, depending on the reason for the garnishment.

Most people are not able to discharge all of their debts through bankruptcy. They are still obligated to pay child support, alimony, most student loans, and taxes they owe. Consulting an experienced bankruptcy attorney will help you sort out all the issues.

Types of Bankruptcy

There are three types of bankruptcy available. Chapter 11 is business bankruptcy and you need to consult an attorney experienced in that area of law if you are contemplating it. Chapter 7 and Chapter 13 are the two types of personal bankruptcy.

Chapter 7 Bankruptcy

Chapter 7 is the more radical of the two personal bankruptcies. It provides for complete elimination of personal debt and is sometimes referred to as straight bankruptcy or total liquidation. Any possessions that the law does not specifically allow to be kept are sold, with the cash proceeds going to the creditors. The bankruptcy is then discharged and creditors can no longer try to collect payments. Chapter 7 usually takes three to five months from the date of filing to the final discharge, and it can only occur once in any six-year period.

Chapter 13 Bankruptcy

Also known as debt adjustment, Chapter 13 involves a reorganization plan that enables people to make repayment according to their income. Foreclosures and collections are suspended while the repayment plan is drafted. A trustee appointed by the court receives a

portion of the borrower's income and pays back all or part of the debt—usually over a three-to-five-year timeframe.

In 2005, the U.S. Congress approved a new bankruptcy law that established a new test for measuring a debtor's ability to repay. If a borrower's income is above the state's median income, the bankruptcy judge can require a Chapter 13 repayment plan. The plan mandates repayment of at least \$100 a month for five years to the creditors.

The law also requires people filing for bankruptcy to pay for credit counseling, and restricts homestead exemption to \$125,000 in those states that allow debtors to keep their homes.

Top priority among creditors is given to a spouse's claim for child support, and there are special accommodations for active-duty service members, low-income veterans, and those with serious medical conditions. All in all, personal bankruptcy may be an option, but there are many issues you need to understand before proceeding.

What if I've declared bankruptcy?

Bankruptcy can provide the opportunity for people to regain their financial stability. But here's something important to understand: If you've declared bankruptcy, don't carry a load of guilt. Learn what the Lord wants to teach you from the difficult experience. And—are you ready for this—even if you are no longer legally obligated to repay the debts terminated through bankruptcy, you should seek to repay them. That's what God really desires.

Following through and repaying your debts will develop your character and you will be a godly example to your creditors. Interestingly, some of the most successful people I know in business—and in life—have made the hard, right decision to repay debts extinguished by bankruptcy.

Seek counsel from a competent attorney to determine the legal way to attempt repayment. For large debt, that may be a long-term goal largely dependent on the Lord's supernatural provision of resources.

Understanding the 1099 Form

At the end of a bankruptcy, some people receive a form 1099 from creditors listing their discharged debt as income. However, debts discharged from bankruptcy do not count as income. As with other important documents, any related to a bankruptcy should be kept in

case the facts are ever disputed.

The Importance of Legal Counsel

People considering a bankruptcy should hire an honest, reputable attorney—one who is an experienced specialist in this area of the law. The benefit of hiring a Christian attorney is that he or she will honor the Lord's principles and provide spiritual encouragement as well.