

Bankruptcy Information Sheet 1 - Your Income

Basically speaking, where I'm coming from in this is that if you've tried the best you can to pay your debts, but for whatever reason you've now had enough, then the relief that can be offered to you through what I call "the umbrella of bankruptcy" may be of some help.

It would be best if you would print out and then quietly read everything on this web site. I think that you'll identify with a lot of it, and you'll understand bankruptcy, from your point of view, a lot better.

(I didn't know for a while that the best way to print the site out was to go to the printer button at the top of this site and give it a click, then again click the printer sign that appears in the window box that comes up. If you do that you'll find that the information sheets and testimonials print in a font size that's easier to read).

You'll find that some of the things that you may have thought or imagined about bankruptcy, and some of the things that grandma and the debt collectors and others have been telling you about it, and about what they can do to you, and what may happen to you, just don't stack up.

From my own experience, and from the feedback that I receive on a regular basis from people who have used my service over the years, bankruptcy can be a huge relief, in fact in most cases bankruptcy can restore your quality of life. Here's an extract from what you'll read in Bankruptcy Information Sheet 6, the Testimonials Sheet, to see what I mean.

"First and foremost my thanks to you both for your understanding and help. This may seem a small thing but the following has had a huge effect on my life.....I no longer flinch when the phone rings or I get a knock on the door. Once again my sincere thanks for your help."

"Dear Fred, thank you for all your help in this. It is so nice not to dread answering the phone or going out to the letterbox. I was amazed to find that the "stigma of bankruptcy" was not as bad as I feared."

As you read the website just jot down any bankruptcy questions that you may have, then if you want to, just send an email to hello@fredappleton.com.au and we'll try and help explain things a bit more. My associate Helen Millward and I are happy to give information and help for free, anytime. It happens every day, mostly to people with what I call ordinary household type debt, store cards, credit cards, overdrafts, personal loans, and more and more these days, tax debt too.

After you've read this website then, rather than send me an email, if you'd like to discuss your matter and concerns with me I've arranged for a receptionist at Alan Nicholls office to take telephone messages for me. Just ring 1300 794 492 and ask for Fred.

If you ring after hours please leave your name and number and email address. I'll get your message and call you back.

When I call I'll give you my number and then ask you to call me back we can then discuss your matter with you, and happily answer your questions.

People ring and email every day from all over Australia, and Australians now living overseas but still with debt here in

Australia, make contact as well. I'm also on Skype if that would help.

Don't feel uncomfortable about making contact.

I think as you read these notes you'll find you don't have to put up with the misery and worry and the verbal assaults and harassment and bullying that you're going through now. Bankruptcy is about getting you back a quality of life.

You'll read that the government has provided you with a choice of practical solutions. Declaring bankruptcy enables you to start again, debt free.

Don't misunderstand me, the government wants you to try and pay your debts, but if you've reached the end of the road and you're on a treadmill just sinking into the quicksand of debt, then they don't want you to live in misery and despair either. They've put bankruptcy there as a way to help you to start again, to get back on your feet, and on with your life.

I think that they may also be mindful that your debt worries will get to make your health suffer, so then the government will have to pick up a bigger tab paying for your recovery through the health system, and through Centrelink. From their point of view it is probably cheaper to provide you with the option of going bankrupt.

On the health point, after I went bankrupt I made a point of doing something about my health as at that time I felt that I was stressed out and overweight, a recipe for disaster.

What I did was I started walking, every day. Walking is free. Perhaps you will find it more enjoyable by listening to music as you go. The main thing is, get involved in something like walking, or gardening, or swimming, before your debt problems make matters even worse for you.

After I went bankrupt I think that walking had a lot to do with helping me to get back on my feet and so be able to get on with my life. I still walk, I love it, and it's still free.

So did singing, check out www.singaustralia.com.au at some stage, it could be for you, to help to relieve your stress.

You can very quickly become bankrupt and out of debt, don't let health issues caused by all this muck things up, when they needn't.

Bankruptcy has been put in place by the government to be a lifeline, a circuit breaker for people who find themselves with, what the then Attorney General in the Howard government in 2003 Darrel Williams called, "overwhelming debt".

There is no definition of what is overwhelming debt. You know if you've got it. Bankruptcy simply cancels most, if not all, of this overwhelming debt and gives you the chance to start again. Don't feel ashamed, I send everybody bankrupt, you'd be surprised. Nobody intends to go bankrupt but the wheels simply fall off, mostly through something like illness, relationship problems, unemployment, underemployment, broken dreams, the rashness of youth and now the Global Financial Crisis, you name it, it happens. But they can all be fixed, probably by about the end of next week.

There are a few penalties for taking the bankruptcy option of course. For 3 years (in most cases) you can't own much, and your credit rating is badly damaged with the commercial credit rating agencies for 7 years, so you may find it hard to get credit again in that time. You may also lose some assets, although despite what other web sites that are just trying to scare you away from bankruptcy and into something that they're selling may say, in the overwhelming majority of cases this hardly happens.

Unless it might affect your personal safety, you're also put on a government data base for life, that's the National Personal Insolvency Index, the NPII. In reality, it seems that the NPII, unjust though it is, is hardly ever an issue. You'll read later what overkill this is.

Despite what I am told that some of the debt collectors say when they ring you up and harass you and sometimes verbally assault you, with the type of debt cancelled by bankruptcy, you personally never have to pay it again. It is now owed by your bankrupt estate, not you. Debt like credit card debt (unless there's blatant fraud involved, and an example is like buying a luxury item costing over \$1,150 within 60 days of going bankrupt), personal loans and store card debt, and losses incurred on car repossessions etc, and tax, is all simply cancelled by bankruptcy. You don't owe it anymore. The debt collectors are telling fibs if they say otherwise.

Debt incurred as a result of a motor vehicle accident, where the other party's insurance company is claiming that you now owe for the damage to their insured's car is also cancelled, If you're not covered by insurance, to get the debt included in your bankruptcy, a few things have to happen first. It has to be established that you owe the debt. A letter from an insurance company saying that you do does not establish your liability. If this is your problem then I suggest that after you've read the rest of this website, you send us an email to hello@fredappleton.com.au about this.

Over the years I've helped with the paperwork for retirees and pensioners go bankrupt with only a few thousand dollars of debt. After a few years the sleepless nights and worry and the pressure of a few thousand dollars of debt, debt that they can't pay, becomes simply overwhelming.

Pensioner debt is mostly credit card debt carried over from when they were last employed and had a bigger income with which they were able to cope with the debt. Now, on a pension, and although it goes against their grain and try as they might, they just find it so hard, bankruptcy cancels their debt and so they can get on with their lives and live on their pension.

At the other end of the scale I've known people on good incomes choose to go bankrupt because they've realised that the larger level of their debt (all of what could be described as "dead end debt") was going nowhere even though they were making their payments on time, all the time.

Some have realised that this debt was going to absorb their long service leave and any severance pay and other lump sums received further down the track. That has made them feel that their level of debt, to them, was overwhelming.

Bankruptcy is there to enable ordinary people to get out of debt, to get back on their feet and so get on with their lives. The decision that your debt is overwhelming is simply relative; it's a very personal decision.

The decision that you've really got to do something about your overwhelming debt, and that declaring yourself bankrupt could be what you have to do, will probably be one of the biggest and hardest decisions that you'll ever have to make. It was for me.

In the Testimonials in Bankruptcy Information Sheet 6 you will read

"Again THANK YOU is not a big enough phrase for how I feel you have helped me, in some ways you saved my life".

From years of experience with people who have contacted me through this website it seems to me that most debt is caused by unavoidable circumstances, for some reason the wheels simply fall off.

Most of the debt that I see is the result of a period of unemployment or underemployment, or you've been through a period of ill health, or you've been through a relationship breakdown. Using credit as a stopgap measure often leads to what later becomes your overwhelming debt when the payback time arrives before the problem has been solved.

If you decide to use one of the services provided by this website to declare yourself bankrupt (see Bankruptcy Information Sheet 5) then in some circumstances it could ordinarily take a week or two to become bankrupt, to get out of debt, and so be able to get on with your life.

As a general rule you will remain bankrupt for 3 years. There are occasionally reasons which could cause your bankruptcy to be extended to 5 or 8 years, but they are really an exception, they are not the general rule (see Bankruptcy Information Sheet 2).

On bankruptcy, your debts and some of your assets are placed under the control of what is known as a bankruptcy trustee.

People who use my services will be declared bankrupt either through the government department ITSA, or through Alan Nicholls at Nicholls & Co, or where appropriate Crouch Amirbeaggi. I don't think that Crouch Amirbeaggi www.bankruptcy.net.au handle too many smaller type bankruptcies.

ITSA is the office of the Official Trustee in Bankruptcy, the government's bankruptcy service. ITSA have offices in every state in Australia. I've dealt with them all.

ITSA may later transfer you to a private trustee if for example they have too much work at the time that your paperwork arrives at their office. If that happens, the private trustee will probably charge you a fee, and that's a minimum fee, of about \$1600 over the next 3 years of your bankruptcy.
Your income, what you can earn and keep

Contrary to what a lot of people think, and what some websites try to say, during the 3 years of your bankruptcy you can continue to earn as much as you like, there is nothing stopping you. There is no limit on how much you can earn so don't let bankruptcy stop you. Get on with your life, go for it.

If you want to be in business for yourself, you must trade in your own name, Joe Bloggs, or Joe Bloggs Painting. I cover this in Information Note 4. I also cover your involvement with a Pty Limited company in that Information Note too.

Bankruptcy cuts off the current overwhelming debt that you've got right now, and whilst it places some restrictions on you (which I'll cover as you read this website) it does allow you to get back on your feet and on with your life again. You saw that in Craig's testimonial on the home page.

I myself would be the best example of a bankrupt getting back on his feet and becoming successful again. And I was 57 when I went bankrupt.

The government wants you to get back on your feet so during the period of your bankruptcy they have set out some rules on what happens to your income so as to allow you to start to do this.

Depending upon the number of dependants living in Australia that rely on you for ordinary financial living support, the government have set out limits on what you can keep out of your earnings. It's quite generous and realistic. If during the period of your bankruptcy (normally 3 years) you "come good" (my term) and so earn ABOVE these limits, called the Threshold Limits, then you simply share these "come good" amounts 50-50 with your bankruptcy trustee. However, you always keep the base amount, the Threshold amount, plus you keep your 50%.

If its applicable (and in most cases it's not, because you simply don't earn enough anyway) then from the 50% that you pay to your bankruptcy trustee, they pay about 2% to the government as a separate tax, they retain some (in some cases all of it) as their fee, and then from what is left over, they pay your unsecured creditors pro rata to their debt.

If you have to pay any of your income to your bankruptcy trustee (and shake yourself by the hand if you do, because that means that you're really getting on with your life again, congratulations) because you've "come good" and have earned over the Threshold Amount, then that's only during the (mostly 3 years) term of your bankruptcy. If you have some specific unusual circumstances and paying the 50% share to the trustee is too difficult, then you can apply to have the figure reviewed.

If it is reviewed, and decreased for a period, then you may have to continue to pay the trustee after your bankruptcy ends, until the real amount that you owed is finally paid.

I've had clients successfully apply to have it reduced or eliminated for a period in cases where the clients were incurring heavy medical and dental and other like expenses at the time for themselves or their dependants or their rent was taking up a large portion of their net income.

If a circumstance like that applies to you, then you simply contact your trustee and have your case reviewed.

If you don't pay any of these 50% amounts when you should, then your bankruptcy trustee can take steps to legally order you to open a new bank account, known as a supervised account, for your income to go into, and there are then strict controls over this account.

I've had no feedback from clients on this yet. I think it best that you co-operate with your bankruptcy trustee if you have the level of income where this 50% payment could be applicable. Don't come to grief here.

Below is set out for you the base amounts that you keep out of your earnings during the period of your bankruptcy. The Threshold Amount that you can keep is basically your net income after tax and child support (if applicable) is deducted. If you're in business whilst bankrupt, then of course it's also after business expenses.

Your net income could be adjusted to take into account things like salary sacrifice and excessive superannuation payments etc. Your trustee has to determine your real net income.

The income threshold figures are also per person, and they are adjusted by the government every March and September to allow for the movements in the cost of living.

With no dependants your net income can be \$44,189.60 net per annum, i.e. an average of \$849.60 per week take home pay. This is your spending money. It's all yours, it's what you can keep, and so anything over that is split 50/50 with your trustee. Go out and earn as much as you can over that, make your \$\$\$\$\$million dollars, be glad that you're going to have to pay something to your bankruptcy trustee over the 3 years of your bankruptcy. It means that you're recovering at a faster rate.

With 1 dependant your net income can be \$52,143.73 net per annum, i.e. an average of \$1002.76 per week take home pay. This is your spending money. It's all yours, it's what you can keep, and so anything over that is split 50/50 with your trustee.

With 2 dependants your net income can be \$56,120.79 net per annum, i.e. an average of \$1,079.25 per week take home pay. This is your spending money. It's all yours, it's what you can keep, and so anything over that is split 50/50 with your trustee.

With 3 dependants your net income can be \$58,330.27 net per annum, i.e. an average of \$1,121.74 per week take home pay. This is your spending money. It's all yours, it's what you can keep, and so anything over that is split 50/50 with your trustee.

With 4 dependants your net income can be \$59,214.06 net per annum, i.e. an average of \$1,138.73 per week take home pay. This is your spending money. It's all yours, it's what you can keep, and so anything over that is split 50/50 with your trustee.

With 4 + dependants your net income can be \$60,097.86 net per annum, i.e. an average of \$1,155.73 per week take home pay. This is your spending money. It's all yours, it's what you can keep, and so anything over that is split 50/50 with

your trustee.

Many people tell me that they don't earn that anyway so going over the limit is quite often not a real consideration.

Don't forget that those amounts are each too. If a husband and wife each go bankrupt, and say that they've got no dependants, then they can each earn \$849.60 net before their bankruptcy trustee can put his hand out for a cut.

For bankruptcy purposes a dependant is a person who lives with the bankrupt and who is wholly or partly dependent upon the bankrupt for economic support. The dependant can earn \$3,030 per year before they cease to be eligible as a dependant. If a dependant earns a bit more than \$3,030 per year, your trustee will work out your pro rata dependant amount claim.

Don't overlook the fact that a husband or wife or partner who is wholly or partly dependant on you for economic support can be a dependant.

The above \$849.60 through to \$1,155.73 weekly amounts are called Threshold Amounts.

If your income is over the threshold amounts, then you're going to have to pay some of your excess to a bankruptcy trustee, so I mostly recommend that Alan Nicholls is asked if he will become your bankruptcy trustee.

Now that you've seen how bankruptcy affects your income you may be able to start to see that the main thing about this is not to let bankruptcy slow you down or stop you. The great plus in all of this is that by getting the protection of "the umbrella of bankruptcy" the awful harassment and assaults from some of the debt collectors, and your resulting worry and stress and loss of sleep, will cease. Quality of life will kick in again. I can vouch for that, it really does.

I expect that you can now begin to see that even after considering the fact that you'll be bankrupt for 3 years and so in that time can't own any major assets except a vehicle, some tools of trade and some ordinary household and private goods like that (this is covered in Bankruptcy Information Sheet 2) and that you'll have a bad credit rating for 7 years, even allowing for that, you may now be able to see that you can start again and get on with your life.

Some people say that bankruptcy is too easy. Garbage, in reality the "umbrella of bankruptcy" is a humanitarian sort of thing, it's a circuit breaker, a lifeline. By the time that you read this you know that you've already paid a big price for what your circumstances over the last year or two, and resulting debt, has done and is doing to your life.

The price that you've paid is not understood by the do-gooders or those whose knowledge of bankruptcy is from text books or their hip pockets. Quite often some of your family and friends can't cope with it either, often they're no help. Print out this whole web site and give it to them to read.

To have a feel about bankruptcy, to know the chill of even considering it in the first place, is something that is very personal, (it's a dark place). I think that it's something that we both have had to experience and appreciate to even start to understand what this is all about.

Once you go bankrupt your debt will be sorted out and basically it will be categorised into one of three boxes.

If you have debt that is child support, a HECS type debt, court imposed fines, a debt incurred by fraud, or a Centrelink debt, then this debt goes into the first box and, generally speaking it does not get cancelled by bankruptcy. You must pay it.

I've also handled a matter where a fellow owed money to the government on a Victims of Crime matter, something do with a traffic incident. Anyway, it turned out that his driver's licence had been cancelled and he couldn't get it back until the Victims of Crime compensation debt had been paid in full. That was an interesting new twist.

I also understand that in some states if you have unpaid parking fines and traffic fines then they may result in your driver's licence or your car registration being cancelled until the fines are paid. I suppose that if bankruptcy has freed you up from your other overwhelming debt, then you may have funds available to pay these types of fines.

Now the debt which most people have and what I call "tied up debt" goes into the second box. In this case an asset is tied up by the debt.

A house mortgage and some car loans would fall into the category of "tied up debt". If your house repayments get too far behind then the bank can take possession of the house and sell it because it is secured ("tied up") by the mortgage. Similarly, some car loans tie up the car by having a Bill of Sale over the car as security. If the loan falls too far behind, then the lender can take possession of the car and sell it to get their money back.

If you've got debt of this sort and want to know more then just contact me again and I'll go over this again with you as it applies to you.

In the real world people rarely lose cars with bankruptcy because mostly the debt on the car is more than the car is worth. In this case I simply advise clients who want to keep their car to have the car loan up to date when they go bankrupt, and to then keep the repayments up to date. I discuss cars more in Bankruptcy Information Note 2.

With houses, the bankruptcy trustee can sell the house. On the homepage I refer to another website that I have written about bankruptcy and houses, so go and read it please at www.bankruptcyandhouses.com.au Also read Information Note 3 here about Debt Agreement Proposals. Although they're oversold to death, entering into a Debt Agreement may be a way to save your house, but do the worksheets there, but be fair dinkum. Then copy and paste them and flick them to me and we can have a chat.

In all cases of "tied up debt", if the asset is repossessed and sold at a loss and the loan is not paid out in full, then if you go bankrupt you do not have to pay back the shortfall. Any balance like this simply gets transferred to become a debt in the 3rd box which I discuss below. The shortfall becomes an unsecured debt.

By the way, I hear from time to time that some debt collectors chasing a car repayment debt say that even though a person goes bankrupt then you have to pay the loss if a car is repossessed and sold. That's simply not true. I've also heard that some also say that even if you go bankrupt then you have to pay the costs of the car being repossessed and sold. That's not true either.

The 3rd lot of debt that is left I simply call "the rest" and these are your unsecured debts. If you go bankrupt then you never personally have to pay this type of debt. Some debt collectors say you do. You don't. I recently helped a debt collector go bankrupt and she told me that her company said that she had to say that, even though she knew that it was incorrect.

If you "come good" by earning income above the earlier mentioned Threshold Amounts, or your bankruptcy trustee can get some funds by selling your assets, or you've received a windfall from grandma's will during your bankruptcy or despite the competition, your numbers have come up in Lotto, then he's entitled to take it to pay your full debt, plus interest to date, plus his or her trustee's fees, plus the government's tax on it all. You can have the rest..

The theory goes that from these funds that the bankruptcy trustee may be able to collect, after he takes his fee, the unsecured creditors who make up your 3rd box of debts, will be paid from the balance.

If you get the government as your bankruptcy trustee then they won't ask you personally to pay them anything.

If the government transfers your matter to a private trustee, or you are declared bankrupt by the courts and get a private trustee, then they may charge you a minimum \$1,682. If this happens to you, and the funds to the trustee don't come

from your bankruptcy estate selling something or contributing from your over the threshold income, then my suggestion is to pay it off at about a \$200 a month.

Examples of the sort of debt that is unsecured, and so cancelled as far as you are concerned if you go bankrupt, is credit card debt, unsecured personal loans, mobile phone debt, income tax (including GST), store card debt. If you are in business in your own name it includes trade creditors and where you've given them, personal guarantees.

In some cases store card debt is not secured, and so in that case it's not usually "tied up debt", so it's then put in the 3rd box with all of your other unsecured debt and is cancelled on your bankruptcy. You lose the debt and get to keep the asset.

Don't rush out though and buy a fridge or something on your store card, and then go bankrupt tomorrow. Something blatant like that could be looked at as fraud. You're expected to be fair dinkum in all of this. If you're really seriously thinking about bankruptcy, try not to use your credit cards. In doing so, use your common sense.

If the store card debt is secured, or its really a rental agreement, then of course you'll have to keep up your repayments if you want to keep the asset.

After you've read what I've written in this web site, and we've answered any queries and concerns that you may feel like taking up with us, I hope that you feel that you then know enough about your situation to see what can, and should be, done.

If you decide to declare yourself bankrupt and you'd like some assistance with the paperwork from this service, then no matter where you are in Australia (or overseas for that matter), we can do it for you very quickly, all over the internet or through the post.

Over the years I have developed an inexpensive yet professional system which, for either \$143 or \$396 or \$595 if it's a "save the house" matter seems to work very well. This is covered in more detail in Bankruptcy Information Note 5 just email hello@fredappleton.com.au saying that you've read Fred's website and that you'd like to go bankrupt, I'll get the ball rolling for you.

Thanks for reading this far, I hope that all of this has been of some help. If you're ready to proceed, now read Bankruptcy Information Note 2.

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