

Research on bankruptcy in the united states of america research paper example

[Finance](#), [Banking](#)



Introduction

Bankruptcy is the state of being unable to repay debts owed. This is a legal status that can affect an individual or an organization. In the United States, there are laws set to help debtors through liquidation process. Alternatively, the individuals can create a repayment plan (Federal Courts, 2011).

Bankruptcy Basics is a publication of the Bankruptcy Judges Division of the Administrative Office of the United States' Courts. Its major role is the provision of relevant information to creditors, debtors, courts, the media and individuals on bankruptcy and existing federal bankruptcy laws. It contains detailed information on the processes involved, discharge in bankruptcy, forms, resources and bankruptcy administration. Bankruptcy cases in the U. S. are exclusively filed in Federal Courts thus State Courts have no jurisdiction over them.

Reasons for filing for bankruptcy

Studies show that over 1. 5 million Americans filed for bankruptcy in 2010. This number has gradually risen as more individuals are affected by the reality of bankruptcy. Why would an individual opt for this?

It is done in order to eliminate debt. Once an individual declares bankruptcy, the need to pay off a debt will be eliminated. According to Chapter 7 of Bankruptcy laws, declaration of bankruptcy eliminates the debt owed completely. An exception is made for student loans, child support and spouse support which have to be paid.

Subsequently, filing for bankruptcy ensures your physical assets are protected from repossession by creditors. These include land, properties, cars and houses. This prevents you from paying the creditor directly and instead engages the organizer of your debt on a different payment agreement. Chapter 13 of the law states that filing for bankruptcy forces your debtor to return any repossessed properties.

Nelson (2012) states that in cases of medical emergencies such as fatal accidents and terminal illnesses, the medical bills may hit the roof and thus become financially overwhelming to the individuals. Medical emergencies account for 42% of all bankruptcy cases in U. S. Through filing for bankruptcy the bills can be eliminated. Unemployment and loss of jobs has been on the increase leaving individuals with no means of survival. In addition to this, being in low-paying jobs has also pushed many citizens into bankruptcy accounting for 22%. Billions of dollars are spent by individuals on addictive habits such as alcoholism, gambling, drug abuse and impulse shopping.

The divorce rate in America is currently at an alarming high of 50% contributing to the level of bankruptcy. Many have been pushed into bankruptcy by the processes involved in divorce. Characterized by; legal fees, child support allocations and alimony payments, divorce causes financial strain on the individual.

Natural disasters are unexpected and often poorly planned for. Occurrences such as earthquakes, floods and hurricanes destroy homes and businesses. Individuals who lack home and property insurance are forced into

bankruptcy. This is also in relation to medical expenses in cases of injuries during the natural disasters. There are other situations that lead to bankruptcy. They include; avoiding foreclosure on the purchase of a home, poor financial planning, preventing the loss of utilities such as electricity and student loans. On the aspect of student loans, the loan won't be completely eliminated. Provisions will be made on the consolidation of the loan with a bankruptcy. This also applies to spousal and child support where the debt must be paid.

Bankruptcy Law

Legal Information Institute, a non-profit organization formed in 1992 concerns itself with the provision of information to the people to facilitate comprehension of the laws that govern them. LII (2012) states that, Bankruptcy Law caters for the development of a plan to enable a debtor resolve debts through division of his assets among creditors. The process caters for the needs of both the debtor and the creditor. These laws can allow a debtor to continue business in order to generate enough income to pay the debt or totally free themselves from financial obligations after the asset distribution. The Law is contained in the Title 11 of the United States Code.

Bankruptcy proceedings exist in two major types

The first one is Liquidation under Chapter 7. This involves the appointment of a trustee. The trustee is in charge of the collection of debtor's property, sale and distribution of the proceeds obtained to creditors.

The second type is catered for under Chapters 9, 11, 12 and 13. They involve the rehabilitation process the debtor is required to undergo. This equips him/her with the relevant knowledge in accumulation income to pay debts. It is important to note that these proceedings can be filed by the debtor willingly or by creditors seeking to recover their funds (LII, 2012).

On completion of the filing process, the court makes a decision on whether the debtor is eligible for bankruptcy or not. An approval is followed by a 341 meeting of creditors set up by the court and a list or required documents is compiled. This may include; bank statements, vehicle and property titles. The meeting is characterized by the review of documents presented and interview of the debtor.

Procedure for Filing for bankruptcy

Federal Trade Commission provides protection for consumers through the prevention of deceptive and fraudulent business activities.

According to the Federal Trade Commission (2013), before filing for bankruptcy, there are requirements individuals have to take care of.

First and foremost, it is important to undergo a credit counseling session. This should be done by institutions approved by the Department of Justice's U. S. Trustee Program in all states with exception to the states of Alabama and North Carolina. In these states, approval is done by Bankruptcy Administrators. The session takes an estimate of 60-90 minutes and a fee of \$50 is required.

An individual is also required to complete a debtor's education course before the debt owed can be discharged. Certification provided at the end of both stages is proof of completion. Post-Filing Debtor Education is done after the filing process and should provide information on budget development, money management and effective use of credit. The education takes about 2 hours and charges range from \$50-\$100. Notably, the counseling and education session can be conducted in person, on phone or online depending on preference.

Avoiding Bankruptcy

Keeping track of your bills and financial statements will provide you with a clear picture of your current financial status. There is need to have record of your debts and assets. In the case of houses, mortgage is considered a debt whereas the current value of your home should be listed as an asset.

A reduction in expenses can be done through comprehensive analysis of your spending habits dividing them into necessities and non-necessities. Make a comparison of your income and expenditure to ensure the later is lower. In some cases, you may be forced to reduce expenses on non-necessities.

Consolidation of debts is a recommended solution. In case of several small debts, taking care of them individually may be hard. Applying for a consolidation loan to pay them off will reduce the number of bills and the interest rates during payment (Feeney, 2010).

Consultation of a credit counselor will help you in discovering ways to reduce expenditure levels and embark on debt consolidation. You'll learn how to manage finances and generate enough income to settle debts.

Debt settlement is not common but can only be used as the last option. In cases of large debts, you may need services of a credit counselor in the negotiation of a settlement.

Conclusion

Establishing an effective balance between income and expenses can be a difficult task. The lack of proper skills to carry out this task may push us to acquire debts with the hope of later payment. Even then, if we don't use the funds borrowed wisely, we may find ourselves unable to repay thus become bankrupt. The Federal government has made provisions for bankruptcy catering for both the debtors and creditors. Through effective management of our finances, we can beat bankruptcy.

References

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