

Be forthright in bankruptcy: A debt not listed is a debt not discharged

Written by Australian Business

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The discharge of debt and the automatic stop are two of the most important benefits of filing for personal bankruptcy and taking advantage of both of these tools is essential to personal risk-taking, development and sometimes just staying afloat. However, a person may feel embarrassed to share all of his or her debts, or, in the alternative, feel a sense of duty to repay a certain debt, such as money loaned from a family member or friend. Regardless of how a filer feels or who the creditor, it's important the filer provide complete and truthful information. Otherwise, the filer may forgo the whole benefit of bankruptcy or may face legal repercussions in addition to owing debt not discharged.

Disclosure of financial information is personal yet necessary

To consider whether bankruptcy is the best choice for an individual's financial situation certain information is required, such as copies of bills, property titles and income tax returns. If personal bankruptcy is the proper path forward, the bankruptcy court requires further information and specific documents for the filing. Among the required documents for a filing are a statement of the filer's financial affairs, a list of current income and expenditures, copies of pay stubs, a list of assets and liabilities and a list of creditors. Additional documents are required and Chapter 13 bankruptcy also requires a plan that describes the payment of creditors.

Without a doubt, an individual's financial information is personal, but painting a full financial picture is essential to using the benefits of bankruptcy, particularly the ability to discharge debt. As such, all creditors should be listed on the bankruptcy schedules because if a debt is not listed then it may not be discharged. Moreover, all debts and creditors should be listed so that creditors receive proper notice of the bankruptcy and are able to obtain a fair portion of any money paid to creditors during the proceeding. This holds true even if a filer wishes to continue to pay the debt despite the bankruptcy proceeding.

A filer may voluntarily pay a debt even after discharge in bankruptcy even when there is no legal obligation to pay; however, creditors may not seek action to collect debts that have been discharged in bankruptcy. Therefore, if a filer forgets to add a creditor to the list, he or she should contact his or her attorney immediately with the name and address of the creditors, the

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amount of the debt and the type and value of any collateral. If a filer forgets any other information required for the initial bankruptcy filing, the filer runs the risk of the court dismissing the case unless the information is provided to the court within 45 days of when the petition was filed.

To avoid the risk of dismissal, contact an experienced bankruptcy attorney who can accurately gauge whether personal bankruptcy is appropriate and who can help put together all the necessary information.