

October 03, 2013 /**24-7PressRelease**/ -- How bankruptcy affects divorce (and vice versa)

No matter how you look at it, both bankruptcy and divorce are life-changing. The decision to file for either one of them is an important one that must be carefully reasoned before action is taken. If you are contemplating both divorce and bankruptcy, the stakes are even higher, and you will need to exactly contemplate the pros and cons of the timing of those filings.

Why it matters

Some people may think that a bankruptcy filing has no bearing on a divorce case, and vice versa that a divorce won't affect a bankruptcy. Simply put, those people are wrong. When bankruptcy and divorce are together on the proverbial table, the order in which they are filed, the assets and debts that are included in the bankruptcy estate, and whether the filing is by one spouse or jointly as a couple could impact the debt relief achieved by the bankruptcy and dramatically affect the property settlement reached in the divorce.

Key issues

One issue that affects many couples not guided through the Chapter 7 or Chapter 13 bankruptcy process by an experienced attorney or financial advisor who is familiar with the interplay of bankruptcy and divorce is the revival of debts. A joint debt that one spouse had discharged in a pre-divorce bankruptcy filing can be "revived" if he or she accepts responsibility for that debt in the divorce decree. Debt revival will, in essence, wipe out much of the debt relief offered by the bankruptcy process.

Another important issue that commonly arises when only one spouse files for personal bankruptcy is that the non-filing spouse might be on the hook for the entire amount of any joint debt. This can completely derail any property settlement agreement between the parties, and, in the interest of fairness, the filing spouse might end up with no marital assets since the other party is saddled with debt. If the parties have already divorced at the time of a Chapter 13 or Chapter 7 bankruptcy, then the non-filing spouse may still be stuck with joint debts, but he or she won't have the benefit of receiving marital assets to help defer the costs.

Finding help

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Written by Australian Business

Are you tired of dealing with unmanageable debt and contemplating bankruptcy? Has the financial strain of crushing debt added so much tension to your marriage that you are ready to divorce? Do you want more information about the ways in which those two important legal processes interact? If the answer to any of those questions is "yes," you should consult an experienced bankruptcy attorney in your area to find out more about your legal rights and options.

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