



## **SPECIAL REPORT:**

# **THE TOP 12 PERILS FACED BY WAITING TO FILE BANKRUPTCY**

## Timing a bankruptcy filing wisely can have a significant impact on your future!

If you're having financial troubles and are sitting on the fence wondering if you should file bankruptcy, or if you face an immediate problem that bankruptcy can alleviate or eliminate, such as a wage garnishment, foreclosure, judgment lien on your home, or car repossession, you may need to file for bankruptcy right away. These twelve reasons show why delaying a bankruptcy filing may have drastic repercussions.

1. **You May Not be Able to Meet the Means Test.** Your income may later on exceed the allowable maximum income based on the county's medium income. You may get a severance package or bonus at work that skew things when taking your last 6 months of income to do the means test. These would eliminate your ability to qualify for a Chapter 7 bankruptcy.
2. **Stopping a Foreclosure.** Waiting until the last minute to file bankruptcy leaves a debtor vulnerable to losing their home in foreclosure if they're a homeowner. A mortgage servicer has to go through a foreclosure process before they can take possession of a debtor's home. There is only a certain "window of opportunity" for the debtor facing foreclosure to use bankruptcy to save their home. If the debtor waits too late, and the mortgage servicer has won a judgment for possession, the bankruptcy will not save their home.
3. **A Judgment May be Entered Against You During the Interim.** If you are significantly delinquent on payments you are most likely subject to facing a creditor lawsuit since many creditors are moving quickly to file lawsuits as the economy worsens. If a debtor waits too long before they file bankruptcy, a creditor can quickly file a lawsuit, win a judgment and then swoop in to seize bank accounts and wages. If a judgment should be entered against you by a judgment creditor this will negatively impact your credit unnecessarily.
4. **Blocking a Repossession.** Waiting until the last minute to file bankruptcy can leave you vulnerable to vehicle repossession which otherwise can be delayed or prevented. Many lenders today are moving quickly to repossess vehicles. Filing a bankruptcy after a creditor has repossessed and auctioned a debtor's vehicle can spell financial disaster if they depend on their vehicle for travel to and from work.
5. **Set Off Rights.** If you have any deposits in any banks to which you owe money, whether in the form of CDs, checking or savings accounts, or other forms of deposits your bank may have the right of setoff. Also, beware of automatic payroll deposits. If you file bankruptcy and owe a bank any money as an unsecured creditor, the bank cannot take your funds.

6. **Instant Protection of the Automatic Stay.** You urgently need the protection of the automatic stay (immediate injunction) to stop collection and repossession activities, lawsuits, wage garnishments, utility shut-offs against you.
  
7. **Placement of a Lien Against Your Property.** While a subsequent bankruptcy filing may eliminate your personal obligation to a creditor, if that creditor has been able to place a lien on your property that may survive the bankruptcy and make it difficult to sell such property without having to pay that creditor to have the lien removed.
  
8. **You Delay the Credit Rebuilding Process.** Lengthy debt consolidation or repayment plans, which often continue for several years, can delay the date you start rebuilding your credit since your credit report doesn't start healing until the debts are either paid off or discharged in bankruptcy.
  
9. **Put an End to Stress and Unnecessary Creditor Harassment.** You are probably enduring unnecessary stress due to having to further endure harassing creditor phone calls that would stop upon filing a bankruptcy. Filing bankruptcy now can reduce or eliminate the stress you face due to bills you can't pay, collection calls, worries about wage garnishment all of which can also ruin your health and relationships. Save your marriage, ditch your debts.
  
10. **Recapturing of an Inheritance.** Under bankruptcy laws, any inheritance received within 180 day after a bankruptcy discharge may be recaptured. Thus, delaying your bankruptcy, when you anticipate an inheritance, can unnecessarily expose such funds to recapture.
  
11. **No tax is generated by discharging debts in bankruptcy.** However, if you settle or have your debts forgiven outside of bankruptcy there is often a tax consequence whereby you are liable for the amount of debt forgiven or reduced. Additionally, the federal tax exclusion for cancellation of debt on foreclosures of principal residences is set to expire in 2012.
  
12. **Retirement Planning.** Since you are not getting any younger, if you delay addressing your negative financial situation, every dollar spent on making minimum payments to creditors is a dollar you are not saving for retirement.

Don't delay! You may only regret it. We understand that it's not always easy to weigh the pros and cons of filing for bankruptcy against the consequences of waiting it out. Contact one of our experienced bankruptcy attorneys at (949) 453-7979 or at [info@southocbankruptcy.com](mailto:info@southocbankruptcy.com) who can help you find a solution to your financial troubles.