

## What everyone (including attorneys) should know about bankruptcy

What should everyone, including attorneys, know about bankruptcy? If you or your clients are in financial difficulty, use this list to point yourself or them in the proper direction.



### 1. Most people get to keep everything

People who file Chapter 7 bankruptcy (the type that gets rid of their debts quickly), overwhelmingly (97+%) keep all of their assets. Yes, Chapter 7 is called a "liquidation" proceeding, but most people keep everything because of "exemptions" (protections) allowed in bankruptcy.

### 2. High-income people can file bankruptcy

They may need to file Chapter 13 and pay something to the bankruptcy trustee (who pays their creditors) each month for five years, but often they pay only a small percentage of what they owe.

### 3. Once filed, all creditor actions cease

Once someone files a bankruptcy, an "automatic stay" immediately prevents all creditor actions against them, and stops any that have started, including lawsuits and foreclosures. How long are creditor actions stopped; that's for a qualified bankruptcy lawyer to determine.

### 4. Many taxes can be discharged

If income taxes are "old enough", they can be discharged in bankruptcy. What does "old enough" mean? See a bankruptcy lawyer for that. However, trust fund payroll taxes are not dischargeable (really, only employers would have those).

### 5. Marital support can't be discharged

Family support, child support, maintenance, or alimony is not dischargeable in bankruptcy.

### 6. Failed business corporations often have no good reason to file bankruptcy

A corporation that files a Chapter 7 does not get a discharge of debts. The bankruptcy trustee liquidates the assets of the corporation and gives the proceeds to the corporation creditors.

The bankruptcy trustee would look through the entity's records, looking for loans made to insiders or preferential transfers that could be recovered.

Often it's better to just shut down the corporation. Instructions for dissolution are on the website of the California Secretary of State.

### 7. Bankruptcy can increase credit score

Sometimes, because the debt-to-income ratio improves after bankruptcy, the person's credit score quickly increases.

### 8. Bankruptcy is a specialty

The revised bankruptcy laws of 2005 made bankruptcy much more complex. Filing without a bankruptcy lawyer, including a lawyer who is not experienced in it (possibly helping a friend), presents the danger of having the case dismissed or, worse, losing valuable assets.

Malcolm Ruthven  
Attorney at Law  
San Francisco Bay Area  
415.342.4666 Fax 415.869.6645  
[mruthven@mruthvenlaw.com](mailto:mruthven@mruthvenlaw.com)  
[ca-bklaw.com](http://ca-bklaw.com)



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