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Spouse Bankruptcy: How This Affects You

Do not panic when facing spouse bankruptcy. Of course, we don't mean to say here that the fact your spouse declares insolvency is not a serious matter. We're just saying don't be alarmed.

Inheriting the debt of the insolvent spouse and being made suddenly responsible for them is not supported by law. Except for certain situations.

One thing you must never forget is that if you are not part of a debtor-creditor agreement, then you are not part of it. The obligation to pay any debt only arises between those involved in that agreement.

So, this means that the spouse of the debtor is not responsible for the debt. The bond of marriage between them does not operate to transfer the obligation.

However, when the spouse of the insolvent person is part of the agreement, then he or she will also be responsible to pay the debt. That's the only instance where that can happen.

In other words, the spouse also contracted to pay the debt together with the now insolvent debtor-spouse. That makes that spouse a co-debtor.

This obligation is either a joint or solidary one.

In a joint obligation, you are under obligation to pay only your share/percentage of the debt, but not the whole debt.

In a solidary obligation, however, the creditor has the choice to make either husband or wife (who are co-debtors) answer for the whole amount. The point of the solidary obligation is that in case your co-debtor cannot pay, then you pay the whole amount or what remains of it.

What makes spouse bankruptcy special is that there is a privilege given to husbands and wives in that they can file for bankruptcy together. This is about the only time this can be allowed.

There are advantages and disadvantages to a joint filing for chapter 13 or 7 bankruptcy.

Under a chapter 7 bankruptcy, when a husband and wife who owe a debt together do not file for bankruptcy together and instead opt to have only one of them do it, then this would not stop the creditor from pursuing the other spouse.

But if they file for bankruptcy together and they obtain a discharge, that would stop the creditors from going after either of them.

There is also the case for unsecured debts under chapter 13. These are debts not secured by property.

This falls under chapter 13 bankruptcy. When a co-debtor spouse decides to file for bankruptcy, he can be shielded by the collection activities of creditors because of the "automatic stay".

A "co-debtor stay" is also activated which holds back creditors from pursuing the other non-filing spouse. However, this protection is not a guarantee that the creditors cannot pursue the non-filing spouse.

However, the application of payments on secured debts must be uniform. For example, if you pay 75% on one unsecured debt, then you must also pay 75% on your other unsecured debt. Failure to do this or failure to totally satisfy all these debts can give allow your creditors to pursue your non-filing spouse especially when the court gives its consent.

The examples given above are what make spouse bankruptcy different from ordinary bankruptcy. That is because it may involve two persons.

Filing for bankruptcy is a long and tedious process, if you need help, then seek legal counsel from a Schaumburg attorney.

Want to find out more about [Spouse Bankruptcy](#), then visit changandcarlin.com.