

If you are divorcing, or thinking about getting a divorce, you probably already have thought about the immediate financial difficulties it may cause. There will be discussions about alimony, child support if you have children together, and splitting up the other assets you owned jointly.

When you read about jointly-owned assets, you are probably thinking about your home, other realty, maybe a car or two that has both of your names on it. However, there is another thing owned jointly by most couples that is less of an asset and more of a liability: your debt.

Before you begin thinking about how everything is going to be divided, maybe even before you go to divorce court, you should obtain a copy of your credit report. This will show you much of what you need to know about which accounts are the responsibility of one ex-spouse or the other, and which accounts are jointly owned (or owed, rather).

Joint accounts are the responsibility of both you and your ex-spouse. If one of you doesn't take his or her turn paying the bill, the negative mark will affect both of your credit ratings. As you are both making a fresh start, neither one of you needs negative information on your credit report.

Even if you have already been to a divorce court and have had a judge allocate financial responsibilities, your creditors still hold both of you accountable for your joint accounts. Just like two unmarried people can open a joint account, a divorce does not null and void a joint account.

As long as both of your names are on the account, both you and your ex-spouse are still legally responsible for making sure that the bill gets paid. If your ex-spouse was held responsible for a certain jointly-owed debt as per the divorce agreement, you are still responsible for at least making sure that he or she is doing so.

If your ex-spouse is not assuming the responsibilities that he or she should, you can of course file a complaint with the divorce court, but by that time your credit has already been affected. Even if you believe that your ex-spouse can and will make the payments on time, it is better to take care of this before you visit a divorce court or an arbitrator.

The best way to prevent potentially devastating credit problems is to either close or separate joint accounts, preferably before you begin the settlement process. If you can talk with your ex-spouse, you may find that this will save you a lot of complications down the road.

While it's understandable that this isn't always possible, working the financial matters out with your ex-spouse will make things easier after the divorce. Call each of the creditors for which you have joint accounts open and ask them to transfer the account to the name of who is solely responsible now.

By law, a creditor cannot change anything about a joint account because of a change in your marital status. If an ex-spouse requests that the names on the account be changed, however, the creditor may do so. But the creditor reserves the legal right to refuse to separate the accounts.

If your ex-spouse is solely responsible for the account, ask the creditor to release you from the debt. This would mean that you are no longer legally accountable for the remainder of the debt. However, remember that it is the creditor's discretion to release you from the debt or not, so don't assume that they will automatically do this.

The creditor may ask you or your ex-spouse (whoever is now responsible for the account) to reapply for credit as an individual. They can choose, based on your most recent credit information, to either extend or deny credit to you.

Whatever you do, do not fail to make timely payments to your jointly-owned accounts. As some may think this can be used as retribution for an unfair settlement (too much alimony, child support payments, etc.), it actually hurts both of you equally. Not to mention, it isn't going to help the appearance of your character if there is another hearing in the future.

Your mortgage is one particular debt that you will need to be careful about handling. If one of you is going to keep the house, the mortgage may need to be refinanced to remove the other person's name from the mortgage. Or you may plan to sell the house and split the money. These things go for any other properties you may own together (summer homes, investment properties, etc.).

In most but not all divorce cases, the home is refinanced by the person seeking to become the whole owner of the asset. When the mortgage (in the case of a house) is refinanced, it is done so in an amount adequate to satisfy the debt previously held by both spouses. Also, an option for a cash buyout for the other spouse may be included. This gives the other spouse a chance to retain any equity he or she may have had invested in the home.

Another option, as mentioned above, is to sell the house outright, and pay off the joint debt entirely. Before you do this take into account any repairs or improvements that you will need to make to the house before you can put it on the market. As you and your ex-spouse are selling the home to eliminate an old joint debt, both parties will be responsible for preparing the house to be sold.

A third and more rare option is novation, or the substitution of a new debt for an old one. Novation will remove one spouse's name from the debt, plain and simple. Generally, the creditors will only agree to this if the person receiving the debt (and therefore, the asset) has both a great credit history and a large income.

Although it is becoming less common today, some parties seek to remain in the home

until the children are 18, retaining the equity, before the house is required to be sold and the equity divided. In order to do this, the party seeking this resolution will need to demonstrate several things before this is considered. He or she will need to convince the court that the current home provides the most stable environment for the children, stability that the kids could not enjoy anywhere else. Second, the home must be affordable, and third, the parent that receives custody would have to prove that he or she cannot afford another suitable home.

It just may happen that you and your ex-spouse are not able to split everything down the middle, whether the two of you want to or not. If your creditors are seemingly making this impossible, you will probably need to include several protective language clauses in your divorce decree, or agreement.

If some of your debts remain tied together after you divorce, discuss these protective language clauses with your lawyer. An example of one of these clauses would be a part of the divorce decree that doesn't allow your ex-spouse to get out of paying a debt by declaring bankruptcy. This will both protect you and assure that the debt is being reduced, at least a little bit.

If you are having problems during or after a divorce, whether it be with your ex-spouse failing to make his or her required payments or finding your own payments difficult to make each month, you do have a right as a consumer to place a statement on your credit record.

To do this, you need to contact each of the major credit bureaus and ask that a statement explaining why you did not/could not pay the specified bills. Here is the contact information for each of the three major U.S. credit bureaus:

Experian National Consumer Assistance Center

P.O. Box 2104
Allen, TX 75013-2104
1-888-EXPERIAN
www.experian.com

TransUnion Corporation

P.O. Box 2000 Chester, PA 19022
1-800-888-4213
www.transunion.com

Equifax Credit Information Service

P.O. Box 740241
Atlanta, GA 30374
1-800-685-1111
www.equifax.com

To receive a copy of your credit report, either visit the website of one of these companies or call their toll-free number. For whatever reason, credit bureaus seem to change addresses often, so it is recommended that you verify the address before sending personal information through the mail.

The cost of obtaining a credit report will vary from state to state. If you live in Colorado, Maryland, Vermont, New Jersey or Massachusetts, your first report is free. If you live in Georgia, your first and second reports are free of charge. Residents of all other states will pay a small fee between \$2.00 and \$9.00.

Also, if you have been denied credit within the past 30 days, you are entitled to receive a free copy of your credit report.

The Fair Credit Reporting Act allows a consumer to add a statement of up to 100 words to his or her report. When writing to the bureaus to have a statement added to your report, include all pertinent information such as name, address, phone number, social security numbers, previous addresses (within the last five years), and your date of birth. If you are adding a statement concerning a joint account you held with a former spouse, you may want to include his or her information, too.

Address the letter with "Attn: Consumer Relations Department." Request that the bureau send you a copy of your updated report once the statement is added. Keep in mind that your statement will remain exactly that, a brief explanation for why an account may have gone late or delinquent. The delinquent or late status of your account will remain on your report for seven years. How much weight a potential creditor will put on your statement is up to them.

If there is a legitimate mistake on your credit record, write to the bureaus with the same information, including the information on the account in question, and ask that the remark be investigated and removed. If the creditor does not respond within thirty days, write another letter. If another thirty days go by without a response, write to the bureau and include a dated copy of the first letter.

Send a copy of this letter to the Federal Trade Commission office, along with copies of the first two letters. The address for the FTC is:

Federal Trade Commission
CRC-240
600 Pennsylvania Ave, NW
Washington, D.C. 20580

To file a formal complaint, you can either mail it to the address above or you can file it online at www.ftc.gov/ftc/consumer.htm. Be persistent with the credit bureau. Even if, through some oversight, the information you are disputing actually belongs on your report, the credit bureau is still obligated by law to respond to your request.

Fixing up your credit report can take time. Building a credit report from scratch can also take time, especially if you have just gotten a divorce and have never established a significant amount of credit on your own. Not having a credit history isn't as bad as having derogatory marks on your credit report, however.

One good way to build credit from the ground up is with a credit card with a small limit, or maybe a department store card. Unless you had joint accounts with your former spouse that went unpaid for long periods of time, you should be able to get a credit card with a reasonable interest rate. Don't settle for cards with annual fees.

The one sure-fire way to start your credit habits off on the wrong foot is to charge more than you can afford to pay off each month. If you can't afford to pay the entire balance on time every 30 days, then you can't afford to use credit. Only make small charges that you can afford to pay in full each month to show the credit card company that you are a good credit risk.

This will lead to a healthy credit history, will keep interest rates low and raise your credit limit so you have a bigger credit reserve when a genuine emergency strikes. After a few months of making consistent on-time payments on your first credit card, apply for another. DO NOT apply for another line of credit if you owe a large amount of money on your first card. Requests for credit are recorded on your report, and while they are not necessarily derogatory, creditors that see these requests alongside a large amount of debt being paid down slowly may be less enthusiastic about giving you a loan with good rates.

If you have trouble getting credit on your own, you can ask a relative or friend with good credit to cosign on a loan or credit card for you. A cosigner on a loan is like a voucher for you, or a backup for the creditor. If you do get someone to cosign on a loan for you, it is probably even more important that you pay the bills on time compared to having a loan with only your name on it. Any late payments, or worse, defaults, will go on both your credit report and your cosigner's.

Your cosigner will be unlikely to help you out in the future if you begin to harm their credit history. Besides, if someone cosigns on a loan for you, chances are that they're someone whose trust you don't want to lose. Be a good friend, or son or daughter or niece or nephew and be responsible with your cosigner's credit.

After you have kept current with your cosigned account for a few months, try to get credit on your own. If you are denied credit, or if the only cards you are offered are cards with annual fees or secured cards, it won't hurt to wait another month. Just follow the rules of responsible credit and be patient; your day of good credit will come.

A secured credit card, as mentioned above, is usually the last resort to someone looking desperately for credit. In fact, it's not as much of a credit card as an unsecured card is because you need to put a deposit down or open a savings account to use a secured card.

There also may be other charges and fees. Pay close attention to the fine print on the credit application.

Your available credit will be a percentage of your deposit or savings account balance. This is how the card is “secured.”

There is no shame in getting a secured credit card, especially if it is the only card you are able to be approved for. If you’ve tried applying for other cards and can’t find anyone to cosign for you, a secured card is the only way you are going to be able to build credit. But remember: if you fail to keep your secured card account current, the chances of you being extended credit in the near future, including secured cards, are slim to none.

Making small charges, like one \$20 purchase each month, and then paying off the balance in full is the only way to use a secured card. Think of the time in which you use a secured credit card as a probationary period. Once you prove yourself creditworthy, you can begin to apply for less restrictive credit.

If all of this talk about building good credit is just wishful thinking to you because you are so far in debt, don’t get discouraged just yet. All this means is that you have room for improvement. A debt management program might be appropriate for you. Just be careful when choosing a program.

“Debt consolidation” programs don’t do you any favors by lowering your minimum payments. Paying only the regular minimum payment on a card with a high balance will already keep you in debt for the rest of your life. Credit card companies love debt consolidation programs (many are affiliated with credit card companies) because they stretch your indebtedness out even further, hoping to get minimum payments from you beyond your mortal existence, we can only assume.

A program that takes an aggressive stance towards eliminating your debt, whether it be by negotiating interest rates or by concentrating on one debt at a time, is much more worthwhile than a program that just prolongs your debt.

There is another option, a popular legal option, that more and more people are choosing today: bankruptcy.

If you’re thinking about bankruptcy, you are not as alone as you think you are. According to the American Bankruptcy Institute, about 1.5 million individuals filed for non-business bankruptcy in 2002, over two-thirds of them filing Chapter 7 bankruptcy, which is sometimes known as “straight bankruptcy.”

So bankruptcy is the only way out, right? Think again. You’re probably not as bad off as you think. Besides, bankruptcy isn’t all it’s cracked up to be. If it were this simple, even more people would be doing it. Here are a few facts about bankruptcy you should know:

- **Filing bankruptcy should be your absolute last resort.** After you file, this information will stay on your credit report for the next seven to ten years.
- **There's no such thing as a free lunch.** Believe it or not, filing for bankruptcy actually costs money. Attorney and court costs can be in the hundreds of dollars.
- **There are two types of personal bankruptcy.** There are two very different options you have when filing for bankruptcy, Chapter 7 and Chapter 13.

Chapter 7

Chapter 7 is known as “straight bankruptcy.” This method calls for the discharge of all debts except alimony, child support, loans obtained through filing fraudulent financial statements, taxes, loans not listed on the bankruptcy petition, legal judgments against you, and any student loans.

So, if you don't have any of these obligations, you're off the hook, right? No way. You will most likely have to surrender a large portion of your property to satisfy the debts you owe. However, most of the time you will retain possession of your car, your home, any items you need for your occupation and most of your personal property.

Chapter 13

Chapter 13 is sometimes called the “wage-earner plan.” Under this plan, you keep your property, but you surrender control over most of your finances to the bankruptcy court handling your case. The court will then approve a repayment plan based on your financial situation.

Chapter 13 provides for repayment of all or part of your debt over a period of three to five years. During this time your creditors cannot bother you for payment and any outstanding debt you have will not incur any interest.

Do whatever you can to avoid having to file for bankruptcy. Ask to borrow money from friends, co-workers, parents and people on the street before going to bankruptcy court. Call your Aunt Florence in Baltimore that you haven't talked to in ages. Even if you are completely desperate, you may not be so desperate as to declare bankruptcy.

Debt management provides better solutions for your credit woes than any bankruptcy plan has to offer. And it looks much better on your credit record.

Now you know that bankruptcy is always the last option. But what if your ex-spouse doesn't know this? Or what if he or she is forced to resort to the last option? How will this affect you and your settlement?

Laws about bankruptcy after divorce vary from state to state. If you are receiving child

support or alimony, you are still legally entitled to these payments. However, common sense will tell you that if your former spouse is filing for bankruptcy, it just might be more difficult for him or her to make these payments. If you depend on the alimony and/or child support (which you most likely do), a former spouse's bankruptcy might push you closer to bankruptcy yourself.

If you live in a "community property" state, you may face additional problems. There are nine community property states, and while the subtleties of the laws change from state to state, all nine have the same general guidelines for how property is divided after a divorce. Community property states are sometimes called common law states.

The nine states are:

- Arizona
- California
- Idaho
- Louisiana
- Nevada
- New Mexico
- Texas
- Washington
- Wisconsin

Here's how the community property laws work, in general. Community property is any property acquired during the marriage that not the separate property of one of the parties. What is separate property you ask? Separate property is property acquired by one spouse either before the marriage, or property that was received as a gift or inheritance by one spouse.

In these definitions "property" is pretty much anything and everything, tangible and intangible. It includes everything from jewelry to real estate to employee benefits. It also includes debts.

What does this mean for someone whose ex-spouse is declaring bankruptcy? It means that you share the debts as community property just like everything else. And it doesn't matter if the debts were acquired individually or by both you and your ex-spouse together. What all of this boils down to is that if you live in a community property state and your ex-spouse files for bankruptcy, you will most likely have to pick up the tab.

Creditors have the legal right to pursue you for the debt now, and you better believe that they will exercise it. If you were already having trouble making ends meet, as many people do after a divorce, you may be in even worse shape now.

As troublesome of a situation this might be, there are really only two options: pay the debts or file for bankruptcy. As you already know, filing for bankruptcy should only be

done after much consideration. If you try to pay the debts off, you may need some cooperation from your creditors. Call each creditor and explain your situation; try to negotiate a payment schedule that you can afford.

If calling the creditors yourself doesn't work, seek the professional help of a credit consultant, to either negotiate an interest rate reduction or to set up a debt management program. Remember to stay away from institutions that only reduce monthly minimum payments, as these types of establishments just sell the illusion of financial freedom, when they really provide you with just the opposite.

It just may happen though, that the debts your ex-spouse owes combined with the debts you owe are just too overwhelming, especially if you have a single income household. Bankruptcy should always be the last option, you know that, but it still remains an option. Before you start thinking about bankruptcy, be sure to research your options with a certified credit consultant.

If your debts are severe enough that a credit management expert cannot find a way to help you, your second opinion should be that of a lawyer. You're probably going to need to get a lawyer to properly file for bankruptcy anyways, so you can seek their advice then (debt consultants are always a good first option, because their advice is free!).

If an ex-spouse forces you into bankruptcy, you can at least make a note of that on your credit report by adding a statement. This may draw some amount of compassion for you when creditors read your report.

The important thing to remember is that there is always a way of dealing with the financial trouble you may be having right now, even if it is as drastic as filing for bankruptcy. All of these options are in place for a reason, and if you need to use them to resolve financial problems, you're not doing anything wrong. In fact you're doing the right thing, as you owe it to yourself to get on with your life.