

## **What are my options if I do not qualify for bankruptcy or if I do not want to file bankruptcy?**

In the last twelve years, I have had dozens of clients with considerable amounts of unsecured debt who unfortunately, did not qualify for Chapter 7 Bankruptcy because their incomes were too high. It is not all that unusual for a single person earning \$150,000 per year to contact me seeking to discharge \$75,000 or more in credit card debt or payday loans. Under certain circumstances a person in this predicament might qualify under the Means Test, but then again, maybe not.

One option may be to file Chapter 13 Bankruptcy. In Chapter 13 Bankruptcy, the person filing may pay a small portion of or all of his/her unsecured debts back depending on disposable income and his or her ability to make payments. In Chapter 13 Bankruptcy, the Debtor will also be responsible for paying the Chapter 13 Trustee's fee which in many cases could be hundreds or thousands of additional dollars. While many of my Chapter 13 clients end up paying back pennies on dollar, there are some who face the prospect of having to pay their debts back in full. The thought of paying 100% of their debts back plus thousands of dollars in fees to the Chapter 13 Trustee is a hard pill to swallow for many of my clients, even when I sugar coat it by telling them most debts paid back in Chapter 13 are not subject to interest.

Sometimes, people simply do not want to file Bankruptcy for various personal reasons. Another option may be Debt Negotiation. In the last ten years I have been successful in negotiating almost a million dollars in settlements on behalf of my Debtor-client, often times reaching settlements as low as twenty-five cents to fifty cents on the dollar. It is important to note that past settlements are not indications of potential present or future settlements. However, for those people who do not want to pay their debts back in full, Debt Negotiation is a viable option.

Credit card settlements most often involve a lump sum payment which leaves many people asking, "If I cannot pay my credit cards every month, how am I going to pay lump sum settlements?" A person seeking to negotiate and settle debts must have access to settlement funds. These funds can often be obtained through emergency pension loans, liquidation of assets, Home Equity Lines of Credit, or help from friends and family members. There is no obligation to settle all debts right off the bat. It is central to target those debts that are of immediate importance such as judgments and law suits. Once that pressure is taken off, an individual can reevaluate his/her situation and determine if remaining debts need to be addressed.

One can also employ the strategy of combining Debt Negotiation with Chapter 13 Bankruptcy. In instances where a person filing Chapter 13 will have to pay creditors 100% of what is owed, it may be advantageous to settle one or two of the larger debts at a discount, leaving the remaining debts to be paid back in full through a Chapter 13 Bankruptcy payment plan. This strategy will not only save funds by virtue of a settlement, but it will also help create a more affordable monthly payment through the

Chapter 13 Plan. Pre-Bankruptcy planning such as this is not without its caveats. We strongly urge persons thinking about filing Chapter 13 Bankruptcy to consult and seek further detailed advice from a professional bankruptcy attorney.

You should also note that debt settlements may sometimes be subject to tax consequences. Individuals settling debts should also consult their tax professional for a better understanding of what these consequences might be.

I strongly urge you to contact our office so that one of our experienced bankruptcy attorneys can help you develop a debt management plan tailored to your specific situation.

*Written by Marc W. Daniels, Esq.*

**About the Author:** Marc W. Daniels, Esq. is a bankruptcy attorney who has represented scores of consumer bankruptcy clients over the last twelve years. Prior to his association with Kirschenbaum & Kirschenbaum, P.C., Mr. Daniels worked at a boutique bankruptcy firm located in Melville, New York where he specialized in Chapter 7 and Chapter 13 Bankruptcy, Debt Negotiations, Mortgage Modifications, and Residential Foreclosure Defense. Mr. Daniels was born and raised on Long Island and is proud to have had the privilege of serving the community he and his family have called home for over fifty years.