Debt Solutions

A Fox Symes Publication

Contents

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About Debt

Debt. We all worry about debt. Even the best of us can find ourselves in the middle of unmanageable debt at some point in our lives. This could be a result of unexpected job loss, a broken relationship, overuse of credit cards or unforeseen medical expenses beyond our control. Things can and do go wrong and often these situations are unpredictable. Even the best financial plans can come unstuck.

When faced with too much debt and not enough cash we can struggle as we try to determine who must be paid, who can wait and which creditors are happy to receive reduced payments. This can make us feel very isolated and often we do not know what options are available or where to go for help.

If you are in this situation then you have begun to resolve the problem by researching your options.

Where Do You Stand?

Before you take any steps or consider any options you should assess your debt position. By completing the following questions you will be able to quickly assess how you deal with your money. Answer each question honestly to evaluate your personal repayment capacity.

1. Do you spend more than you earn on a monthly or yearly basis?

a. Never
b. Sometimes
c. Often
d. Always

2. How many different credit cards do you have?

a. 0
b. 1
c. 2
d. 3 or more

3. Are your credit cards at the credit limit or over it?

a. Never
b. Sometimes
c. Often
d. Always

4. How much of your monthly installment payments go towards paying interest only?

a. < 20 %
b. 20-50 %
c. 50-75 %
d. >75 %

5. How much of the time do you pay the minimum amount due each month, or less?

a. < 20 %
b. 20-50 %
c. 50-75 %
d. >75 %

6. Do you use one credit card to pay another?

a. Never
b. Sometimes
c. Often
d. Always

If you have answered "a" to most or all of the questions, you are doing very well and have debt under control.

If you have answered "b" to most or all of the questions, your debt is manageable, but should not increase.

If you have answered "c" to most or all of the questions, you are in the danger zone of being able to manage and reduce your debt to a sustainable level.

If you answered "d" to most or all of the questions, you need to look closely at your debt situation and speak with a debt consultant as soon as possible to consider the best way to get back on track.

What should I do?

Before you do anything you should work out a financial plan, or budget. This is an easy process. Write down how much you earn and look at how you spend your money. For the next week why not write down every time you spend money and note what you spend it on. This will show you where your money goes.

Generally speaking, a healthy financial goal is to reserve 60 percent of your net income for living expenses. Expenses that fall into this category are:

- housing
- transportation
- food
- utilities

Allot the next 10 percent to entertainment. For example:

- Clothing
- holidays
- other personal enjoyment costs

Then another 10 percent should support short-term savings, with the final 20 percent toward long-term savings or debt repayment.

After you work out your budget identify those items where you can cut down your spending**.** The money you save from this could be used to manage your debt payments. This is as simple as learning how to budget, developing a budget and sticking to it.

You may realise you spend more than you earn!

In any situation when you are having difficulties paying your debts always talk with your creditors first. Tell them you are having difficulties and ask if they can help. Some creditors have hardship provisions which can give you temporary respite.

If this exercise does not solve your debt management problem then you should consider other options.

It looks like I might need help

Sometimes your debt problem may be too severe to resolve by budgeting and/or speaking with your creditors. If this is you then perhaps you need to look at other available options.

At Fox Symes, there are debt consultants who know what options are available and will work closely with you to resolve your debt problems.

What are my options?

There are a number of options available and these include an informal arrangement with your creditors, a Debt Agreement, a Personal Insolvency Agreement, a debt consolidation loan and mortgage refinance. Obviously the option most suitable for you will depend upon your individual circumstances.

Below is some general information about the options. Read it before you take any further steps.

<u>A Debt Agreement</u>

A Debt Agreement is an alternative to bankruptcy. A Debt Agreement is made when creditors accept your proposal to pay or finalise your debts over time. This solution is similar to an informal, individual arrangement you may try to negotiate with your creditors. However, once accepted it becomes legally binding on you and your creditors. There are other advantages, for example you can make one periodic installment to all creditors covered by the Debt Agreement; the amount you have to pay does not attract interest; you know exactly the length of the Debt Agreement.

A Debt Agreement is a valid option if you satisfy the asset, liability and income thresholds.

To be eligible to submit a Debt Agreement you must:

- Be insolvent (which means you are unable to pay your debts as and when they fall due)
- Have been discharged from bankruptcy for at least 10 years
- Not have entered into a Debt Agreement during the past 10 years
- Not have been subject to a Personal Insolvency Agreement for the past 10 years
- Have a net income (after tax) which does not exceed $63,363.30
- Have unsecured debts which do not exceed $84,484.40

- Have a total property value (not exempt from bankruptcy) which does not exceed $84,484.40

If accepted, creditors no longer have the authority to recover debt through other remedies, including garnishing your wages or enforcing a writ against your property. A proposal is accepted if a majority of creditors with 75% of the value of debts vote in favour of the proposal.

Case Study

Let's look at a situation where a Debt Agreement is a satisfactory resolution, allowing a married couple to regain control over the damaging affects of an unforeseen financial setback – job loss. The following is only an example, and does not portray a real person.

Background

John and Jocelyn were struggling to pay their personal loan and credit card debts for over a year. This financial burden began when John was retrenched a year and a half earlier. He did not receive a redundancy payment and was left without an income for the five months it took to find another job. During this period of unemployment, Jocelyn's wages only covered their basic living expenses. Payments on their personal loan and credit cards were not made. Despite the circumstances, some creditors began to lodge defaults on their credit record and threatened legal action including garnisheeing Jocelyn's wages.

The Problem

By the time John found another job their personal loan and credit card accounts were severely in arrears. Now that both John and Jocelyn were working they began to pay their creditors again. However the amount they owed was unmanageable and they were unable to clear the arrears.

Their total debt was $17,800. Both wanted to repay their obligations. A snapshot of their accounts showed the following:

Loan Account	**Interest Rate**	**Balance**	**Monthly payment**
Credit Card	17.50%	$6,500	$195
Credit Card	17.85%	$8,500	$255
Personal Loan	12.50%	$1,800	$210
Store Card	27.00%	$1,000	$30
Total		*$17,800*	*$690*

The Solution

Fox Symes prepared and submitted a Debt Agreement for John and Jocelyn, a formal arrangement between creditors and debtors. This reduced their monthly payments to approximately $370, leaving them debt-free in approximately 4 years. This saved them $320 per month plus approximately $6,693 in interest repayments.

A Debt Agreement also has consequences. For more information on Debt Agreements visit http://www.foxsymes.com.au/da.htm. Fox Symes is Australia's largest Debt Agreement administrator.

Personal Insolvency Agreement

Another alternative to bankruptcy, Personal Insolvency Agreements allow debtors to offer a proposal to creditors. This proposal is often structured as follows:

- An assignment of property; or
- An arrangement; or
- A composition.

For this solution to be cost-efficient, the proposal should bring a significant amount of debt into negotiations.

An assignment of property gives control of your property to a Trustee, who will arrange for it to be sold with the proceeds being distributed to creditors.

An arrangement allows the trustee to sell certain property and also for installment payments to be made.

A composition only provides for payments to be made either by installments, lump sum of combination of both.

With Personal Insolvency Agreements creditors generally accept a lower repayment as full and final settlement of the debt.

Once presented, creditors vote on the proposal, either accepting or declining the terms. If accepted, the proposal becomes a binding deed setting forth the terms including what property is available for creditors, how the proceeds will be distributed and when the debtors are released from the debts. If creditors reject the proposal, they may resolve that you file for bankruptcy.

Case Study

Let's look at an example where a Personal Insolvency Agreement brought a seemingly uncontrollable financial obligation into much more manageable terms. The following is only an example, and does not portray a real person.

Background

Jason is a professional pilot with $200,000 income annually. Five years ago, he entered in a marketed investment scheme, which accelerated his tax deductions. Jason received a letter from the Australian Taxation Office advising that the deductions on the investment scheme were disallowed, leaving him a $250,000 repayment obligation for taxes and penalties. Despite the fact that Jason had three investment properties, there was very little equity available and selling the properties would not have resolved his unsecured debt position.

The Problem

The ATO repayment schedule didn't afford enough money to maintain his personal loans, credit card payments (totaling $95,000) or his monthly payments on the investment property loans. Despite numerous meetings and negotiations, Jason couldn't settle the matter with the ATO. He feared legal action and bankruptcy.

The Solution

While Jason is not eligible to submit a Debt Agreement because his income and liabilities are above the allowable threshold, he is eligible to submit a Personal Insolvency Agreement to his creditors pursuant to Part X of the Bankruptcy Act.

Fox Symes prepared and submitted a Personal Insolvency Agreement with his creditors through a registered Trustee.

The Personal Insolvency Agreement reduced unsecured credit payments to $3,000 per month for 36 month as full and final settlement of his debts. Jason avoided the stigma and repercussions of bankruptcy by offering creditors around 30 cents in the dollar. With the assistance of Fox Symes, creditors accepted the Personal Insolvency Agreement.

For more information on Personal Insolvency Agreements visit http://www.foxsymes.com.au/x.htm.

Debt Consolidation Loan

Another alternative solution giving you control over debt with high interest rates is a debt consolidation loan. This joins various loans, credit cards or unsecured debt into one manageable payment, often broadening the repayment term and decreasing monthly payments sometimes by as much as 50 percent.

Repayment terms are negotiated to meet your needs, extending up to seven years depending on the loan amount. Because debt consolidation loans have no ongoing or pre-payment fees, they can be paid off early should you choose, or honored within the extended terms allotted.

This solution is suited for situations when monthly payments grow unmanageable, but you have secure employment and can adequately manage a more modest installment amount. When you consolidate debt, you should simultaneously cancel or eliminate the use of existing credit facilities to avoid a repeat of the problem in the future.

For more information on debt consolidation loans visit http://www.foxsymes.com.au/consolidation.htm.

Mortgage Refinance

A mortgage refinance utilises the existing equity available in your property to repay other high interest debts. A mortgage refinance is the process of applying for a new loan on your current property and using this new loan to pay out your current mortgage and any other debt you may have.

A mortgage refinance may allow you to package your current monthly repayments from all of your debts into one convenient repayment. This means you end up paying less each month than what you currently are.

There are lenders who will assist you even if you fall into one or more of the following categories:

- Short-term employed or not employed long enough
- Irregular income
- Self employed
- Government Allowance (including New Start)
- Previously bankrupt
- Rejected by another lender
- Pensioner
- Adverse credit history
- Existing loan arrears or defaults
- Limited savings history

Since every ones financial situation is different it is important you seek assistance in assessing you situation and which financial options may be available.

For more information on mortgage refinance visit http://www.foxsymes.com.au/refinance.htm.

Bankruptcy

When all avenues have been exhausted and no option seems viable, bankruptcy is the last resort.

To file for bankruptcy you must complete a Debtor's Petition, Statement of Affairs and sign and acknowledge having read the Prescribed Information Booklet before lodging the documents with Insolvency and Trustee Service Australia (ITSA). There is no filing fee with lodging the documents. Provided documents are complete, ITSA will generally accept the documents and you will be made bankrupt on the same day.

Once filed, the bankruptcy period is three years unless the trustee lodges an objection to your discharge that may extend the bankruptcy for an additional five years. With some exceptions (fines, child support, fraud), creditors as at the date of the bankruptcy cannot take any further legal action to recover their debts, instead they can lodge a claim in the bankrupt estate.

Any new debts you incur after bankruptcy you will be liable for.

The rights of secured creditors are not affected and they can repossess assets if you are in contractual default of payments or you fail to insure the asset as required by the mortgage loan.

All your property as at the date of bankruptcy vests in a trustee for the benefit of creditors. As such you are not allowed to sell or deal with most assets of value.

The trustee will investigate the cause of the bankruptcy, report to creditors and also realise/sell any available assets for the benefit of creditors. Certain property is protected and bankrupts are allowed to retain it.

This includes normal household furniture and effects, tools of trade to the value of $3,350, a primary means of transport to the value of $6,700, superannuation monies (provided they do not exceed the reasonable benefits limit) and proceeds from personal injury claims. Property not realised before the date of discharge does not get handed back to the bankrupt.

Once you file for bankruptcy, you're no longer eligible to manage a corporation, face difficulty obtaining credit and will require written approval for overseas travel.

It may also restrict you from working in certain occupations and employers are generally not contacted unless you have failed to comply with a specific income related request.

The trustee will assess the bankrupt annually to determine whether they are liable to make compulsory Income Contributions because their income is above an indexed threshold amount.

The trustee will also take into consideration the number of dependents, whether they are liable to make child support payments or in receipt of a tax refund.

An undischarged bankrupt cannot incur credit or borrow more than $4,083 without disclosing to the person they are dealing with that they are bankrupt. A bankrupt can operate a business. If under an assumed name the bankrupt must advise everyone they deal with they are an undischarged bankrupt. A bankrupt is obliged to advise the trustee if they change their name or address. An undischarged bankrupt must also get the trustee's permission before traveling overseas.

Bankruptcy and other serious credit infringements are recorded for 7 years. The debtor's name will be listed for 7 years from the commencement of their bankruptcy even if your bankruptcy has been discharged**.**

For more information on bankruptcy visit http://www.foxsymes.com.au/bankruptcy.htm.

Why Fox Symes?

Fox Symes is Australia's largest nationally based Debt Relief™ company. It was established in February 2000.

The founding partners recognised that individuals and businesses find themselves in financial difficulty for many reasons. When income or revenue is disrupted for any reason, many of us are likely to rely on credit to help get us through.

Many things can affect your life and, in turn, your financial situation. You may lose a job, end a relationship or experience serious illness affecting you or your family. Each of these and other situations can lead to over extended borrowing and serious debt problems. Though situations that lead to financial trouble are often uncontrollable, people typically feel ashamed or embarrassed about their debt.

Fox Symes treats all clients and enquiries confidentially and helps bring thousands of individuals and businesses out of financial ruin each year. We've grown into a national company with over 150 experienced staff and consultants and have guided and assist more than 100,000 individuals and businesses in resolving their financial position and regaining control of their lives each year

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Take note

Whatever remedy you choose to resolve your debt problems you need to be carefully informed. So make sure:

- You **fully understand** what you are doing
- The solution will be of **real benefit** to you and is not just a short term fix
- You have achieved **control** over your debts
- Your payments will be **reduced** and not increased
- You are **informed** of the consequences of the option you have chosen
- There are no **hidden costs**
- You are **better off** as a result of the option you have chosen