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Debt Agreements – Be Careful

Debt Agreements under Part IX of the Bankruptcy Act can be dangerous and care should be taken when considering a 'Debt Agreement'.

When persons are seeking to resolve their financial problems they need to consider all available options for resolution of the financial problem and the effect that each option will have on their family and personal life.

For a Debt Agreement to be successful it must resolve the financial problem and remove the stress from the debtor's personal life and family members. If this does not happen there could be severe consequences for the debtor and the chance of the Debt Agreement being successfully completed is reduced.

When a person becomes bankrupt, he/she is allowed to retain a minimum level of income before being required to make income contributions. For example a person who is bankrupt, and has no dependents, is entitled to earn up to \$37,537.50 after tax before being required to make income contributions. A person who is bankrupt and has 4 or more dependants is entitled to earn up to \$51,051.00 after tax before being required to make income contributions.

For a Debt Agreement that involves income contributions to have a reasonable chance of success we recommend that the available income of the debtor should not be reduced below the levels of income that a person is able to retain whilst bankrupt. Respect for the life and needs of the debtor must be maintained. This in turn protects the potential for the Debt Agreement to be successfully completed.

Bankruptcy can represent a more humane option than a Debt Agreement, for resolution of financial problems. Bankruptcy allows a person to retain;

- 1) Household furniture & effects
- 2) Motor Vehicle up to an auction value of \$6,150.00.
- 3) Tools of Trade up to an auction value of \$3,150.00.
- 4) Income ranging from \$37,537.50 after tax where the person has no dependants to \$51,051.00 after tax where the person has four or more dependants.
- 5) Superannuation

Where a Debt Agreement places extreme pressure on the debtor and the debtor's family or even worse where the Debt Agreement fails, the consequences can be severe for the debtor. Below is a quick comparison of Debt Agreements to Bankruptcy.

	<u>Debt Agreement</u>	<u>Bankruptcy Act</u> <u>Bankruptcy</u>
a) Is it administered under the Bankruptcy Act, 1966	Yes	Yes
b) Is it recorded on the National Personal Insolvency Index	Yes	Yes
c) Does it stop interest being charged on outstanding accounts	Only if the Debt Agreement is successfully completed	Yes
d) Does it release the debtors from all unsecured creditors claims	Only if the Debt Agreement is successfully completed will the debtor be released from all provable debts in bankruptcy.	Yes, the debtor is released from all provable debts in bankruptcy.

If Debt Agreements are used inappropriately, the consequences for the debtor can be devastating. Be careful.

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