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**A BANKRUPT'S SAVINGS ARE PROTECTED,  
BUT MAY BE LOST IF THE SAVINGS ARE SPENT**

During Bankruptcy, a bankrupt's income is protected and can not be received by the Trustee of the Bankrupt Estate. The Bankruptcy Act provides the following limits on the amount of income a bankrupt is entitled to retain during the 3 years of bankruptcy.

<u>No of Dependants</u>	<u>Income entitled to be retained by Bankrupt</u>
No Dependants	\$39,457.60 after tax plus 50c in each after tax dollar in excess of \$39,457.60
One Dependand	\$46,559.97 after tax plus 50c in each after tax dollar in excess of \$46599.97
Two Dependants	\$50,111.15 after tax plus 50c in each after tax dollar in excess of \$50,111.15
Three Dependants	\$52,084.03 after tax plus 50c in each after tax dollar in excess of \$52,084.03
Four Dependants	\$52,873.18 after tax plus 50c in each after tax dollar in excess of \$52,873.18
Over Four Dependants	\$53,662.34 after tax plus 50c in each after tax dollar in excess of \$53,662.34

The above amounts are adjusted for the CPI every three months.

A husband and wife who are bankrupt are each entitled to claim all their children as dependants. A dependant is a person who earns not more than \$2,834 p.a. before tax and resides with the bankrupt.

A bankrupt can save from income that which he/she is entitled to retain during bankruptcy and those savings are not available for creditors of the Bankrupt Estate. RE Gilles: Ex parte Official Trustee in Bankruptcy (1993) 42 FCR 571:115 ALR 631.

However whilst handing down the above mentioned decision the judge passed the comment that assets purchased by a bankrupt with income earned whilst bankrupt, if not within any of the excluded categories in S116(2), would constitute property divisible among creditors and should be realised by the Trustee for the benefit of creditors in the Bankrupt Estate.

Copies of this and previous issues is available from our website.

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**FOR BUSINESS RECONSTRUCTION & INSOLVENCY**



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