

## DEBT: HOW TO LEGALLY GET OUT OF IT

By Attorney Michael H. Wald

Last year over 44 million Americans could not make payments on one or more of their accounts. But this probably doesn't surprise you. Most of us already know that many survive in America by establishing credit and throwing themselves into the endless maze of indebtedness. Many find a way to cope, but there are others who never seem to find the light at the end of the tunnel.

The question is, "What can a person legally do to get out of an unmanageable debt situation?" There are four major ways of resolving indebtedness: a consolidated loan, reduced payment plan, Chapter 13 or Chapter 7 of the federal Bankruptcy Act.

A consolidated loan is the first solution that should be considered. This type of loan may be obtained from a bank, finance company, or a credit union with which to pay off all your debts. All of your debts would then be condensed into one monthly payment. The term of the loan, of course, would then be longer. Even though you pay more through the term of the loan, it is still beneficial to people with unmanageable debts. Because, your installment per month is determined by how much you can afford. Unfortunately, there are disadvantages to this type of loan.

Consolidation loans are designed for people in serious debt. Therefore, you should expect to pay a higher interest rate than what would be offered with other types of loans. Also, one or more creditworthy people must guarantee the loan. Insurance on your life is also required and you must pay for it. If you can't qualify for this type of loan or you find it too much trouble to obtain, there are still three more options to consider.

Reduced payment plans are often an easy way to combat indebtedness. Below is a list of steps to

follow when designating a reduced payment plan.

1. Make a list of the monthly debts that you have trouble paying.
2. Make a list of necessity expenses, such as, mortgage, utilities, car payment, food, etc. If you have trouble paying some of these, you may include them on the other list.
3. Figure out your net income and subtract your necessity expenses from it. Whatever is left over will be used for debt repayment paying a portion of your other debts each month in a set amount less than the full monthly amount.
4. Schedule an appointment with each of your creditors to discuss your account. When you meet with them, bring along the reduced payment plan, proof of your net income, and a list of your necessity expenses. Explain the situation to them thoroughly. Hopefully your creditors will be impressed with your willingness to pay and accept your offer. Although some of your creditors may not agree to your plan, and you will have to try another alternative.

If you have problems preparing a reduced payment plan, you may consult your lawyer, a credit counseling service, or a family service agency. You may write to the National Foundation of Consumer Credit, 1819 H Street, N.W., Washington, D.C. 10006, or to Family Service Association of America, 44 East 23rd Street, New York, N.Y. 10010 for the address of a service near you. In Richardson, the Consumer Credit Counseling Service can be called at 437-6252.

Sometimes neither of the two previously discussed plans will be possible. If this is the case, then you still have other options. Chapter 13 might be the next alternative for your unmanageable debts. Chapter 13 is a legal procedure under the federal Bankruptcy Act to help wage earners with unmanageable debt pay all or part of their debts under the protection of the U.S. Bankruptcy Courts. This payment plan is designed for sincere people who are willing to meet their financial obligations

to the best of their abilities. When filing for Chapter 13, a reduced payment plan recommended by you is administered by a trustee appointed by a federal court. Repayment of your debts is then set between a three-to-five-year period. A judge would then have to approve the plan. After the plan is completed the balance of your debts are "discharged" or cancelled.

You are eligible for this plan if you are a wage earner, small business owner or a professional (unless you're a stock or commodities broker) with a regular income. You also must have unsecured debts under \$100,000 and secured debts under \$350,000. For more information concerning Chapter 13 consult a lawyer.

As a last resort you may have to consider Chapter 7 bankruptcy. If you file for Chapter 7 bankruptcy your debts would be discharged, as in Chapter 13, but you would be required to turn over all your assets (except those that are exempt) to a trustee appointed by a federal court. Your assets would then be converted into cash. This is then distributed to your creditors on a pro rata basis. For example: If you have \$10,000 in debts and \$3,000 in cash from the liquidated assets, each of your creditors would receive 30% of what is owed to them. This would then be considered payment-in-full on your debts.

Consolidation loans, reduced payment plans, Chapter 13 and Chapter 7 are all solutions for people with unmanageable debts. Be sure to consider each option carefully. Bankruptcy is not the only answer to your problems.

My thanks to Joyce Cabaj, a student of mine in my law class at the University of Texas at Dallas, who assisted in preparation of this column.

Copyright (c) 1986 by M. Wald & Co.