



Overview of Bankruptcy

An individual can apply for bankruptcy if they meet either of these two (2) requirements:

- Unable to pay their debts as and when they fall due; and
- Present in Australia or have a residential or business connection to Australia.

To enter into voluntary bankruptcy, you need to complete and submit a Bankruptcy Form. It's also possible that someone you owe money to (a creditor) can make you bankrupt through a court process. This is referred to as a creditor's petition. Bankruptcy normally lasts for 3 years and 1 day, however, there is an option for it to be finalised before this time by putting forward a Section 73 Composition.

Why Choose Bankruptcy?

Bankruptcy provides relief and allows for a fresh start. The bankrupt is protected from being pursued by most creditors (secured creditors are entitled to continue taking action) and they are released from most debts.

Bankruptcy protects the interests of creditors by having an independent person (a Registered Trustee) appointed to investigate the bankrupt's financial affairs. If sufficient funds are recovered a dividend will be paid to creditors. There is no minimum or maximum amount of debt to be eligible.

The Bankruptcy Trustee

When an individual becomes bankrupt, a Trustee is appointed. A trustee is a person or body who manages the bankruptcy. This can either be the Official Trustee (AFSA) or a Registered Trustee. You can nominate a registered trustee of your choice.

Obligations of a Bankrupt

- Provide details of debts, income and assets to the trustee;
- Your Trustee notifies your creditors that you're bankrupt. This prevents most creditors from contacting you about your debt;
- Your Trustee can sell certain assets to help pay your debts;
- If you hold a passport, this must be held by the Trustee. You must request the Trustee's permission if you wish to travel internationally.
- You may need to make compulsory repayments, if your income exceeds a set amount; and
- You are not able to be a Director or a Company.

Income and Asset Thresholds

If a Bankrupt earns over a set amount, they are required to remit compulsory payments (50c/\$) to the Trustee. Detailed below are the set threshold amounts. Note that the amount a bankrupt is able to earn increases should they have dependants.

Number of Dependents	All Amounts After Tax (\$)
0	74,064.90
1	87,396.58
2	94,062.42
3	97,765.67
4	99,246.97
4+	100,728.26

A bankrupt is entitled to have a vehicle up to the value of \$9,600 and tools of trade to the value of \$4,450. If a bankrupt owns any property, this will vest in the Trustee from the date that they are declared bankrupt.

Section 73 Composition

A composition is an offer to creditors to repay a percentage of your debts. If successful, this annuls the bankruptcy. It is up to you to decide what you can afford to offer. You can make an offer using money or assets that your trustee can't claim. For example - a relative offers to repay your debts.

In order for the Composition to be accepted, a bankrupt will require a "yes" vote in favour of the Composition from majority in number of creditors and 75% of the dollar value. If creditors accept the offer, the bankruptcy will be annulled immediately.