

# **I Can't Afford to Pay My Debts. What Should I Do and What Is Going to Happen to Me?**

## **I CAN'T AFFORD TO MAKE CREDIT CARD PAYMENTS ANYMORE. WHAT SHOULD I DO?**

- Stop using the credit cards.
- Figure out whether you can afford to make lower payments. Make a budget and be honest with yourself about how much you can afford to pay.
- Visit a Financial Empowerment Center and meet with a financial counselor. These centers are a free service provided by New York City and are located throughout the five boroughs. You can find the nearest one by calling 311.
- If you only receive government benefits, your income is likely exempt from collection. See the list below to figure out if your income is exempt or seek assistance from an attorney. If your income is exempt from collection, your creditors cannot take it from you, even if they sue you and win. Some creditors are more willing to negotiate lower payments if they know your income is exempt.
- Call each of the credit card companies and
  - Tell them you cannot afford to make payments or that you need to make lower payments because of your financial situation.
  - Ask them to lower or freeze the interest.
- Keep notes of the conversation, including the date and the name of the person you spoke to.
- If you come to any agreement with the credit card company, ask them to send you a written copy of the agreement.
- If they refuse to send you the terms in writing, write a letter to the company with the date and time of the conversation and an outline of the terms of the agreement. Keep a copy of this letter for yourself.

## **CAN I GO TO JAIL FOR NOT PAYING MY CREDIT CARD COMPANY OR OTHER CREDITORS?**

No. Unpaid debts are a civil, not criminal, matter in New York. Therefore, you cannot be sent to jail for failing to pay debts. The credit card company can, however, sue you to get a judgment, which may allow it to garnish your wages or seize money from your bank accounts.

## **I OWE MONEY TO CREDITORS, BUT THEY HAVEN'T SUED ME IN COURT. IF I STOP PAYING, CAN THEY TAKE MONEY FROM MY BANK ACCOUNT OR GARNISH MY WAGES?**

No. Creditors must first sue you in court and win a judgment against you before they can forcibly collect from you by freezing your bank account and taking your money, or garnishing your wages. And even if a creditor does obtain a default judgment against you, some of your income and money in your bank account will likely be protected. See below.

## **WILL I BE SUED IF I STOP MAKING PAYMENTS ON MY CREDIT CARD?**

Yes, it is quite possible that you will be sued eventually. Sometimes it depends on the amount of the debt and other factors. However, even if they don't sue you themselves, credit card companies often sell even small debts to companies that will then try to collect on or sue you for the debt.

## **HOW WILL I KNOW IF I AM BEING SUED?**

If you are being sued, you will receive court papers called a summons and complaint. These papers should be either delivered to you in person at your residence or workplace or mailed to you and posted on

your door. DO NOT IGNORE THEM. Go to court as soon as possible and file an answer. You can refer to our fact sheet entitled "*I Am Being Sued For A Debt: What Should I Put In My Answer?*" for assistance in preparing your answer and you can use a free online program to help you write an answer at [lawhelpny.org/consumer](http://lawhelpny.org/consumer).

### **I SEE ADS FOR COMPANIES THAT OFFER TO CONSOLIDATE OR SETTLE ALL OF MY DEBTS AND LET ME MAKE A SINGLE LOWER PAYMENT. SHOULD I USE ONE OF THESE?**

Probably not. No company can make your debt go away. Most companies offering these services charge **extremely high fees**. For example, they may keep 1/3 or more of what you pay them each month as payment for their services. Some of them are fraudulent and do not actually provide the services they promise. You could use the money you pay to them to pay your creditors to lower your debt instead. If you do choose to use such a service, **read everything very carefully and ask detailed questions** about how much of your money will be used to pay your debts and how much of it will be taken in fees. Get all promises in writing. It is advisable that you speak with an attorney or a financial counselor at a Financial Empowerment Center before you agree to anything.

### **WHAT MONEY IS EXEMPT FROM COLLECTION?**

As said above, knowing if you have exempt income may help you to negotiate with creditors because they will know that they are unable to collect this income from even if they sue you. Below is a partial list of monies that generally are exempt from collection or garnishment:

- Wages of people who also receive SSI or public assistance
- Public or private pensions
- Social Security Disability benefits (SSD)
- Unemployment benefits
- Supplemental Security Income (SSI)
- Public school teacher benefits
- Public Assistance
- Veterans benefits (including survivor's benefits)
- Workers compensation benefits
- Social Security benefits
- Child support
- Maintenance (Alimony)
- Railroad retirement benefits
- Some insurance benefits
- Life insurance policies
- 90% of wages earned within the past 60 days

**Note:** There are exceptions to the general rule that the above benefits are exempt from garnishment: some exempt funds may be garnished for purposes of paying child support or federal debts, including student loans. If you owe these kinds of debts, you should contact an attorney to find out how these debts may affect your benefits.