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Bankruptcy: you may not lose everything

You could still get to keep personal belongings and savings to support yourself and your family

By [Leong Chan Teik](#)

ARE you are still disappointed that your pay last year was frozen and you got a small year-end bonus? You had it easy.

Far from worrying about the size of their bonuses, thousands of people last year - 4,317 to be exact - were without extra cash and found themselves buried under a mound of debt, which resulted in them being made bankrupt.

This number of bankruptcies, a 25-per-cent rise from the year before, is the highest in Singapore.

And the figure may go even higher. Adam (not his real name) is among those who are sure they will be one of the statistics.

He owes about \$65,000 to six banks from whom he had obtained credit cards and credit lines.

Another \$35,000 is debt he owes a teachers' cooperative.

Ask him what went wrong and he tells you he himself is bewildered and puzzled at the size of his debt. 'I didn't splurge. I don't go shopping, or womanise or drink,' he insists.

As far as he can recall, his spending pattern went something like this: As he earns only about \$2,000 a month, he would use his credit cards to help pay for purchases. When he needed a bit more to spend on his family of four children, he would draw cash using his credit cards.

As his debt grew, he could hardly repay the minimum amount stipulated every month. He applied for new cards and drew cash from them.

His debt, of course, was not just what he owed from his cash withdrawals and spending. There was also interest - at 24 per cent per year.

Adam says: 'It's been a nightmare opening the letter box to see the credit card statements.'

He hit a wall when he lost two part-time jobs.

'It's impossible to continue like this because my minimum repayment is \$2,700 a month, which is more than my \$2,000 salary. I can only wait for the banks to make me a bankrupt.'

The sole breadwinner in his family, he says he is very concerned about the consequences.

Last week, he e-mailed The Sunday Times a host of questions, which are focused on the practical issues relating to an impending bankruptcy:

**Q** Normally how long does it take for creditors to make a person bankrupt and how long before they come to seize our belongings?

**A** If a creditor has an undisputed claim against you, he would be able to make you a bankrupt between two and six months, says lawyer Vijai Parwani.

'It really depends on how fast the creditor wants to proceed,' he adds.

Creditors can apply to seize the belongings in your house before you are made a bankrupt but not after that.

After you become a bankrupt, your assets vest in the Official Assignee (OA).

'Normally, the OA is unlikely to seize assets,' says Mr Parwani. The exception would be assets which are deemed to be luxuries.

**Q** In a seizure by the OA, what are the personal and home items that I will be allowed to keep? How about water-heater tank, ceiling fans, stand fans, fridge, dining set, beds, furniture, microwave oven, TV, air-con units?

**A** Basically, property which will not be seized are items which enable the bankrupt to earn a livelihood and maintain a reasonable standard of living, says lawyer Amolat Singh.

Section 78 of the Bankruptcy Act specifically states the tools of a bankrupt's trade, and such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his family.

You can make your case on why certain other items should not be seized.

As for items bought under hire-purchase, they are likely to be re-possessioned by the vendors, says Mr Amolat.

**Q** How about mobile phones with running contracts, which I am currently paying for my three daughters? Will they take away my computer and SingNet broadband connection? I need it for my work and so do my children.

**A** 'The OA may consider the hand phones as unnecessary and unreasonable,' says Mr Amolat. As for the computer, it could well be considered a tool of your trade and as being necessary to you.

'However, as there is a cheaper alternative to the broadband, you should not be surprised if asked to make the switch,' he says.

**Q** How much of my pay will I be allowed to keep for my family's monthly expenses?

**A** The bankrupt is entitled to retain his personal earnings and he must be allowed to support himself and his family, says Mr Amolat.

The OA would not be able to ask your employer to hand over your monthly salary to the OA.

However, under section 82, a bankrupt is under a duty to account for all monies and property he

receives after becoming a bankrupt.

This includes your income and after allowing a sum that is 'reasonably necessary' for his and his family's reasonable maintenance, the bankrupt is required to hand over anything in excess to the OA, he says.

This is for division among creditors.

You are required to set out in detail in a Statement of Affairs your expenses.

'You should not be surprised if asked by the OA to modify your lifestyle.'

**Q** Do I get to keep part of my bonus at the end of the year to cover year-end expenses like children's books, uniforms, and TV licence?

**A** 'It depends on the OA. I suggest you keep the bonus for use for necessary expenditure. When you update the OA on your income and expenses, you must declare the bonus,' says **Mr Parwani**.

**Q** I have been working for many years with a good record. Will my bankruptcy in any way jeopardise my job?

**A** For certain types of occupations, such as those providing advice or execution in the financial services industry, if you are made bankrupt, the regulations may require the termination of your services or redeployment to another job position.



### **Life as a bankrupt - things you should know**

**Q** WILL your employer be told of your bankruptcy?

**A** If you do not tell anyone, your company may not know if and when you become a bankrupt.

**Q** Is my Housing Board flat safe from creditors?

**A** Yes, unless you had bought it or refinanced it with a bank housing loan after Jan 1 last year, and the loan agreement provides for foreclosure in the event of bankruptcy.

**Q** I owe less than \$10,000 to a bank. Can I still be made a bankrupt?

**A** Yes, if your other creditors can consolidate your debt and it comes up to more than \$10,000.

Even if a bank is unable to file to make you bankrupt as the debt is less than \$10,000, it may proceed with any of the following actions:

- Writ of seizure and sale of moveable property; or
- Writ of seizure and sale of immovable property.

**Q** I am heading for bankruptcy. Is it advisable for me to transfer my property and other assets to my relatives?

**A** Once a person is deemed to be unable to meet his financial obligations to creditors, any action such as the one you mentioned may be deemed to be defrauding creditors, and thus the money may still be recoverable when you are made a bankrupt.

**Q** Can I take a holiday overseas while I'm in bankruptcy?

**A** You must seek the Official Assignee's permission before you can travel overseas.

If you leave Singapore without approval, you can be jailed for up to two years or fined up to \$10,000, or both.

**Q** Will I be automatically discharged from bankruptcy after three years?

**A** The timing of discharge depends on several factors, including a bankrupt's proposed scheme to settle his debts partially, if not wholly.

There are people who remain bankrupt for as long as two decades and there are cases where dissatisfied creditors object to a bankrupt's impending discharge.

**Q** What difficulties may I face arising from having been a bankrupt?

**A** The Credit Bureau Singapore, which is a commercial entity set up by the banks, will keep a record of your bankruptcy for six years.

This will be given to banks if you apply for a credit facility after your discharge.

Banks could refuse your applications for between three and five years after your discharge.

You may find it hard to get, say, a credit card - which may not be a bad thing if that was what got you into trouble in the first place.

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## **All is not lost**

### **Personal belongings**

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- As for items bought under hire-purchase, they are likely to be re-possessioned by the vendors.

### **Personal earnings**

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- However, under section 82, a bankrupt is under a duty to account for all monies and property he receives after becoming a bankrupt.
- This includes his income, and after allowing a sum that is 'reasonably necessary' for his and his family's reasonable maintenance, the bankrupt is required to hand over anything in excess to the OA for division among creditors.

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