

# What small businesses need to know about bankruptcy

Business is an ever-changing environment that is naturally full of peaks and valleys. Sometimes, even with putting in all the necessary hard work and trying to do all the right things, businesses falter.

While bankruptcy is often perceived as being something negative or bad, it can be a very positive thing. Especially if your business is your primary source of income and there is no income coming in anymore.



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this is a big red flag.

- **Not paying the IRS.** If you hold off paying employment taxes so that you can help make ends meet, you are setting yourself up for trouble. The IRS takes a dim view of this approach to financial management.

- **Not paying equipment loans.** For example, if you are a salon or restaurant, chances are you make payments on your equipment.

- **Hiding from the accountant or debt collectors.** Avoiding these discussions only makes things worse.

- **Fighting with a spouse or partner.** Financial and business concerns cause a

lot of stress in all parts of your life. Especially if your business is your primary source of income and there is no income coming in anymore.

- **Landlord problems.** Your landlord can evict you for not paying your rent. Even if you close your business, you may still owe the landlord if you have a lease.

- **Account changes.** An example here is suppliers no longer extending you credit and insist that you pay with cash or a cashier's check.

- **Lawsuits.** These could be against your company or your suppliers. Chances are the lawsuits will affect your business in some manner.

So how can bankruptcy help? It can allow you, the business owner, to close the old business completely and give yourself a fresh start. You and your attorney negotiate the equipment returns and settle with creditors and the

landlord. If you are facing a lawsuit, filing bankruptcy automatically stops the lawsuit.

Bankruptcy can also give you the breathing room you need to get your business back on its feet. You and your attorney can renegotiate items such as the lease or mortgage, contracts with equipment suppliers and other vendors, tax issues with the IRS so they don't seize your assets and automatically stop any lawsuits.

After all, chances are your creditors already know you are having problems paying your debts. They see bankruptcy as you taking steps to fix what is wrong. Bankruptcy laws protect both the business owners as well as the creditors and is a constitutional right, spelled it out in Article 1, Section 8 of the U.S. Constitution.

The Founding Fathers did this so that people had the opportunity to go into business and if, for some reason, the business failed, they wouldn't end up in debtor's prison for it.

• *Robert Schaller, of Schaller Law Group, Oak Brook, founded the National Bankruptcy Academy.*