



Your debts and creditors

Types of debts

There are several types of debts, which are all treated differently in bankruptcy.

Unsecured debts

An unsecured debt is not tied to an asset. The creditor does not have the right to take possession of any property if you do not make the required repayments.

Secured debts

A secured debt is a debt where the creditor has a claim to an asset until the debt is paid. The secured creditor will have rights under the terms of the loan regarding taking possession of the asset if the debt is not paid. A typical example is a mortgage, where the lender has the right to take possession of and sell the house if you do not make the repayments.

Provable debts

Provable debts are the debts that creditors can claim for in bankruptcy. If any money is raised from the sale of your assets, the creditor will receive a proportion of the money owed.

Non-provable debts

Creditors cannot claim non-provable debts and you will still need to pay these debts after becoming bankrupt. An example is a court imposed fine.

Liquidated debts or liquidated damages

These are debts relating to wrongdoing and liability to pay compensation, where the amount payable has been fixed. Admitting liability alone does not necessarily liquidate a debt.

Unliquidated debts or unliquidated damages

These are debts relating to wrongdoing and liability to pay compensation, where the amount payable has not yet been fixed.

Debts that are released after bankruptcy

These are debts you are not required to pay after bankruptcy. The creditor cannot take any further action against you or your property. Most unsecured debts fall into this category.

Debts that are not released after bankruptcy

These are debts that you still have a liability to pay after the end of your bankruptcy and include child support payments and court fines.

Other

Another category of debts are provable but if not paid will cause a service to end for non-payment. Such debts include essential services like electricity, gas or telephone.

To avoid suspension of your driver's licence and/or your motor vehicle registration, you must pay your debts for parking, traffic and other infringements of State laws. Most States can suspend your licence and/or your motor vehicle registration until payment is made.

Debts you still have to pay both during and after bankruptcy

You still have to pay certain debts despite becoming bankrupt. These include:

- debts which are not provable in bankruptcy, such as:
 - court imposed penalties and fines
 - unliquidated damages you are liable to pay due to accidents, e.g. a car accident, except under certain circumstances

- student assistance/supplement loans (HELP - Higher Education Loan Program)/HECS -Higher Education Contribution Scheme/SFSS)
- debts you incur after your bankruptcy commences.

The Australian Taxation Office may keep your tax refund and offset it against any debt you owe the Commonwealth, e.g. to the Tax Office or Child Support Agency.

Debts you have to pay after your bankruptcy ends

Although you are released from most debts at the end of your bankruptcy, there are some that you still have to pay. These include:

- debts incurred by fraud
- maintenance debts, including child support
- accumulated HECS and HELP debts
- unliquidated damages other than those arising from a contract, promise or breach of trust.