



Bankruptcy

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Definition



- Bankruptcy is a legal status of a person or other entity that cannot repay the debts it owes to creditors. In most jurisdictions, bankruptcy is imposed by a court order, often initiated by the debtor



Discharge

- A discharge in bankruptcy refers to a permanent order that releases the debtor from personal liability for certain specified types of debts, thereby releasing the debtor from any legal obligation to pay any discharged debts.
- After a bankruptcy is discharged the debtor will no longer be legally responsible to pay off the debts.



Option to Keep Paying



- If the debtor wants to continue paying a particular debt to preserve an asset from being liquidated, such as a house, car or furniture, he may continue to do so, and the contract between the two parties is not affected by the bankruptcy.

Islamic Law Pertinent to Bankruptcy



Integrity & Honesty



- Declaring bankruptcy means that the debtor is claiming that he is unable to pay off his debts.
- Hence, it is forbidden for a Muslim to make such a decision unless the claim is true and genuine.
- He must ascertain that all of his current possessions are insufficient to pay off the debts and that most probably, he won't be able to pay them off later on.



Personal vs. Religious Liability

- If a court order discharges a debtor from **personal liability** for a debt, while creditors have received their money from a different recourse, he is also released from his **religious liability**, even if he does gain money in the future.
- It is noteworthy that bankruptcy wipes out only some debts. There are a number of debts that are unaffected by bankruptcy.

Institutions vs. Individual Creditors

- In order for a debt to be removed by bankruptcy, the creditor must be an institution or entity.
- If it is an individual or a group that gave a personal loan, that debt will not be affected by the bankruptcy.





How the System Works ?

- Creditors (whether banks, mortgage companies or credit card companies) have insurance on their loans.
- Companies that lose money to a debtor declaring bankruptcy collect the amount from the insurance companies.



Death vs. Bankruptcy

- Death takes the ruling of bankruptcy.
- If the debtor passes away and released from legal liability, while creditors have received their money from a different resource, then he is also released from religious liability.





Individual Creditors

- If the creditor is an individual, neither declaring bankruptcy nor the death of the debtor would wipe out the debt.
- Insurance companies do not offer individuals coverage for the debts they are owed.
- So, whenever a debtor is able to pay the debt, then he has to.



Statute of Limitations



- Laws passed by legislative bodies in common law systems to set the maximum time after an event within which legal proceedings may be initiated.

Does it Apply ?

- If he died and left inheritance, then his inheritors are required to do so on his behalf, because the rights of others are not discarded with the passage of time or with death.
- In other words (statute of limitation) does not apply.



Ruling of a Judge



- The ruling of a judge doesn't change a religious ruling from being Haraam to being Halaal or vice versa.

Priorities in Paying Loans

- if a Muslim declares bankruptcy is able to pay some of his debts;
- He must give priority to the debts owed to individuals over the debts owed to entities.