

## **Dealing with student loan debt**

It's no secret that student loan debt is skyrocketing, not only in New York, but also across the United States. In fact, the New York Federal Reserve recently announced that the total amount of student loan debt has almost tripled during the past eight years, reaching \$966 billion as of the fourth quarter of 2012. The number of borrowers whose student loan payments are past-due has also gone up from just under 10 percent back in 2004 to about 17 percent in 2012.

Unfortunately, given the current bankruptcy laws, those individuals carrying student loan debt are often left with no real way to get those loans discharged. Although this was initially the case only for federal student loans, in 2005 a new law was enacted that made private student loans virtually impossible to discharge in bankruptcy also. Accordingly, even though student loan debt continues to top all other types of consumer debt, it is the only kind of debt that generally cannot be eliminated through a bankruptcy filing.

### **Is there really no way to discharge student loans through bankruptcy?**

As noted above, the enactment of the 2005 law regarding student loan debt and bankruptcy has made it practically impossible for anyone to have a student loan discharged through bankruptcy. However, under very limited circumstances some people who have suffered undue hardships can qualify to have student loans discharged in bankruptcy.

It is very difficult to persuade a bankruptcy court that an individual has suffered an undue hardship, if an individual can demonstrate that repaying the student loan would cause severe and substantial financial suffering, a court may grant a discharge of student loan debt during a bankruptcy.

When examining a person's ability to repay student loan debt, the bankruptcy court will take into consideration a number of factors, including:

- The age and health condition of the individual
- The individual's income and expenses
- The amount of time that the person's income issues are likely to continue

It should be noted that individuals interested in attempting to have their student loans discharged through a bankruptcy filing will need to file a separate court action in addition to a bankruptcy petition.

### **Deciding whether or not bankruptcy is the right choice**

Filing for bankruptcy protection under any circumstance is not an easy task. Whether it's a mountain of student loan debt that a person's faced with, or a stack of credit card bills that won't seem to decrease, it is crucial that an individual speak with someone who handles bankruptcy cases on a regular basis so that he or she can make an informed decision.

If you are considering filing bankruptcy, it is a good idea to speak with a bankruptcy attorney. A bankruptcy lawyer will be able to evaluate your specific situation, especially if your financial issues stem from student loan debt, and he or she can provide you with advice about your available options.