

# Do I Have To Pay For My “Soon-To-Be” Ex-Wife’s Credit Card Debt?

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April 4, 2013 | by Einhorn Barbarito

**Dear Ask the Attorney:**

**My wife and I are in the midst of getting a divorce. We’ve always maintained separate credit card accounts, but she has run up a lot of debt on hers. Am I responsible for the massive credit card debt that she has run up on her credit cards? She wants us to declare bankruptcy but I don’t want to ruin my credit rating.**

**Thanks,**

**G.S.**

Dear G.S.:

The Court, in its discretion, has the power in a divorce matter to allocate responsibilities for debts between spouses regardless of legal responsibilities to third parties (i.e., creditors). Therefore, even if only one spouse actually incurs the debts, both spouses may be liable for such debts if they were incurred for joint marital purposes. Because the circumstance of each case is unique, the allocation of debts may vary from case to case. The Court may take into consideration the following factors in determining an appropriate allocation of debts:

1. Whether the incurring of the expenses by one spouse was known or should have been known by the other spouse;
2. Whether both spouses participated in the encumbrances;
3. Whether the debts were incurred during the break-up of the marriage;
4. Whether the debts were incurred for the purpose of intentionally dissipating marital assets;
5. Whether the expenses incurred benefitted the marital estate;

## 6. Whether the debt incurred was a necessity.

Essentially, the court will make a determination whether the debt is marital or non-marital. If marital, the debt will generally be subtracted from the total value of the marital estate before equitable distribution. If non-marital, the debt generally will be considered as a circumstance of a spouse's economic circumstances for the purpose of determining equitable distribution. Keep in mind, however, that in some circumstances, even if the debt is considered to be marital, the debt could be allocated to one spouse only based upon his or her greater earning potential.

As to bankruptcy, this is a very specialized area of the law and your best response would be to contact an attorney who concentrates in this field of law. No one can force you to file bankruptcy if you do not wish to do so. But again, this question should be addressed with a professional.