SURPLUS INCOME

An important concept to understand before you file bankruptcy in Canada is **surplus income**.

Here's how surplus income works:

Basically if you make more you pay more.

If you are earning $200,000 per year and you go bankrupt, it's only fair that you pay more to your creditors during your bankruptcy than someone who is earning minimum wage.

There are two key concepts that you must understand regarding surplus income:

1. The government sets a monthly amount that it feels is sufficient to pay for basic living expenses. If your after tax earnings are over that limit, you are required to pay half of the over the limit amount. If the limit is $2,014 per month and you earn $3,014 per month, you are $1,000 over the limit, so you will be required to pay half, $500 per month.
2. If your average income is more than $200 over the limit, your bankruptcy is automatically extended from nine months to twenty one months, and you are required to make those surplus income payments in each of the twenty one months.

In summary, the more you make the more you pay, and the longer you are required to make the payments. Let's look at those calculations in more detail.

How does the surplus income work?

The government sets a threshold for what you are allowed to earn each month, based on the size of your family. Here are the limits set for 2014, based on your family size:

Family Size	Limit
1	$2,014
2	$2,508
3	$3,083
4	$3,743
5	$4,245
6	$4,788
7	$5,331

(Allowances for 2015 have not yet been set)

Here's an example of how the calculation works:

> Emily is single, with no dependents. She earns $800 biweekly. In a typical two payday month she earns $800 x 2 = $1,600 after tax. She is allowed to earn $2,014, Emily is below the surplus limit, so she will not required to make any "surplus income" payments to the trustee during her bankruptcy.

But what if Emily's income is higher?

> Emily is single, with no dependents. She earns $1240 biweekly. In a typical 2 payday month she earns $1240 x 2 = $2,480 after tax. She is allowed to earn $2,014, so Emily is $466 above the surplus limit, so she is required to make a "surplus income" payment to the trustee of half of the amount she is over, or $233. At the end of the first seven months of Emily's bankruptcy, the trustee averages Emily's income. Some months she worked overtime and earned more; in two months she received three paycheques, in some months work was slow and she did not work a full week. After averaging all of Emily's paycheques, Emily's average pay per month for the bankruptcy was $2,614 so her average surplus income was $600 over the limit, requiring her to pay $300 per month. A normal first time bankruptcy lasts for nine months, but because Emily's income was more than $200 over the limit (it was $600 over the limit), Emily will be bankrupt for an additional 12 months, and she will be required to pay $300 per month for a total of 21 months, if her income doesn't change.
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> Emily's case is a good illustration of the two key concepts to understand when determining how much surplus income you are likely to be required to pay if you file bankruptcy in Canada: you pay half of the amount you are over the limit, and you are required to make those payments for a total of 21 months in a first time bankruptcy.

So, before you decide to file a bankruptcy, ask your trustee if your income is in the range that will require you to pay surplus income and, if so, to estimate your surplus income payments. Be sure to tell them if you are expecting overtime, or a bonus, because that will increase your average monthly pay. Of course you also want to be sure that they take into account your extra pay months, because this will also increase your earnings.

If you think your income is in the surplus income range or you think it might increase during your bankruptcy, you would be wise to talk to your trustee about all your options. You may want to consider a consumer proposal. In a consumer proposal your payments are fixed, so even if your income increases, you payments stay the same. However a consumer proposal could go on for up to five years and the overall cost could be more not less than your surplus income requirements. So it's important for you do the math with your trustee before you make any decisions.

The calculation of surplus income can be quite complicated, especially in households where there is more than one individual who earns income.

We strongly recommend you talk to a trustee about all of your options before filing a bankruptcy or consumer proposal.