

Case studies

Case study 1

Kimberly was 18 and at university. She had a part time job and got a student overdraft just to get her through the tough weeks. The part time job let her save up so her student loan didn't get too big, and she was able to pay for some of the fees herself each year. In her second year she got a bank loan to allow her to get a cheap car. The overdraft was interest free so she used that to help pay back the loan. In her third year she got a credit card to help pay for books, and when she moved flat after university ended she used it to get some new appliances and furniture.

She got a job at the end of her Honours degree but by this time needed a new car and a new wardrobe for the corporate world. The bank came through with a \$NZ10,000 loan. There was no problem getting that now she was working. However the combined loans were now about \$NZ21,000 with really big monthly repayments. Her student loan was about \$NZ7,000 and came out of her pay regularly. Unfortunately, Kimberly lost her job after a few months and was no longer able to make any payments towards her loans.

What option is best for Kimberly?

 No Asset Procedure

As the debt was less than \$NZ40,000 and she had no realisable assets or surplus income, she would be eligible for No Asset Procedure.

Case study 2

Rick saw an advertisement for self-employed courier drivers. The income sounded good, and there would be no-one looking over his shoulder, unlike his current job.

The income was great. He was able to make the payments on his new van, meet the household bills and share occasional treats with his wife. He always intended to put aside money for the tax, as he wasn't on PAYE anymore, and at the initial meeting he'd had with the company they showed him how to set up GST so he could claim his expenses. He wasn't quite sure when this was due, but he figured he'd get a letter and then he'd find an accountant. He saw an accountant in April of the following year, gave him everything, and got back a bill and details of how much he owed the IRD. He paid what he could weekly, but couldn't afford the full amount. He kept working and he and his wife had a baby.

The following April the accountant did his books again. The bill was a lot bigger because last year's amount was still there. The next August he got a great offer of a job. He was over being a courier anyway so he took the job, sold the van and paid off what was left on the loan to buy it. He was on PAYE now so he figured he didn't need to see his accountant again. A few years later he got a letter from the IRD with default assessments on unfiled returns. They were assessed on the full year he had worked as a courier and the bill was over \$NZ200,000. The letter said the next step was court. He got an accountant to file the unfiled returns. This reduced the debt to \$NZ60,000. However the stress gave him a heart attack and he had to have 4 months off work. In the meantime the IRD got a judgement for the outstanding \$NZ60,000. He went back to work part time, but now the tax payment was due in 3 months.

What option is best for Rick?

 Rick should consider filing his debtor's petition for bankruptcy

Rick is not eligible for a Summary Instalment order or No Asset Procedure as he owes more than \$NZ40,000.

Case study 3

John and Marianne's two kids had grown up and moved out. They were living comfortably with two modest incomes, a nest egg, superannuation funds and a shrinking mortgage. They had talked for years about starting a small business together. Marianne was a qualified therapist and John would manage the business and keep on his job part time. They had worked out everything, the business plan was immaculate and the bank gave them a second mortgage to get started. They set up a limited company. They had to sign lots of contracts, such as property leases, and equipment

leases. These had personal guarantees attached to them, but that was just par for the course. The business started well, the plan was in place and the clientele was coming in.

Two years later they signed all the leases again, the business was almost running itself and John was happy working his old job still part time. A month later a rival business moved in, then the council changed all the local street parking to a half hour limit and strongly enforced it. Their clientele dried up rapidly. The business closed 4 months later, after they had used all their savings, cashed in their superannuation and sold their car. The company went into liquidation, but there were still the personal guarantees totalling \$NZ128,000. The equity in the property was used to pay creditors and left \$NZ39,000 owing that they were both liable for. The stress took its toll, Marianne went on the sickness benefit, John managed to pick up some good paying work full time but could not meet all the debts as they fell due.

What could they do?



Summary Instalment Order

As the debt was less than \$NZ40,000 and they were able to make some payments, they would be eligible to enter into a Summary Instalment Order.