Credit and Divorce

Mary and Bill recently divorced. Their divorce decree stated that Bill would pay the balances on their three joint credit card accounts. Months later, after Bill neglected to pay off these accounts, all three creditors contacted Mary for payment. She referred them to the divorce decree, insisting that she was not responsible for the accounts. The creditors correctly stated that they were not parties to the decree and that Mary was still legally responsible for paying off the couple's joint accounts. Mary later found out that the late payments appeared on her credit report.

If you've recently been through a divorce — or are contemplating one — you may want to look closely at issues involving credit. Understanding the different kinds of credit accounts opened during a marriage may help illuminate the potential benefits — and pitfalls — of each.

There are two types of credit accounts: individual and joint. You can permit authorized persons to use the account with either. When you apply for credit — whether a charge card or a mortgage loan — you'll be asked to select one type.

Individual or Joint Account

Individual Account: Your income, assets, and credit history are considered by the creditor. Whether you are married or single, you alone are responsible for paying off the debt. The account will appear on your credit report, and may appear on the credit report of any "authorized" user. However, if you live in a community property state (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin), you and your spouse may be responsible for debts incurred during the marriage, and the individual debts of one spouse may appear on the credit report of the other.

Advantages/Disadvantages: If you're not employed outside the home, work part-time, or have a low-paying job, it may be difficult to demonstrate a strong financial picture without your spouse's income. But if you open an account in your name and are responsible, no one can negatively affect your credit record.

Joint Account: Your income, financial assets, and credit history — and your spouse's — are considerations for a joint account. No matter who handles the household bills, you and your spouse are responsible for seeing that debts are paid. A creditor who reports the credit history of a joint account to credit bureaus must report it in both names (if the account was opened after June 1, 1977).

Advantages/Disadvantages: An application combining the financial resources of two people may present a stronger case to a creditor who is granting a loan or credit card. But because two people applied together for the credit, each is responsible for the debt. This is true even if a divorce decree assigns separate debt obligations to each spouse. Former spouses who run up bills and don't pay them can hurt their ex-partner's credit histories on jointly-held accounts.

Account "Users"

If you open an individual account, you may authorize another person to use it. If you name your spouse as the authorized user, a creditor who reports the credit history to a credit bureau must report it in your spouse's name as well as in your's (if the account was opened after June 1, 1977). A creditor also may report the credit history in the name of any other authorized user.

Advantages/Disadvantages: User accounts often are opened for convenience. They benefit people who might not qualify for credit on their own, such as students or homemakers. While these people may use the account, you — not they — are contractually liable for paying the debt.

If You Divorce

If you're considering divorce or separation, pay special attention to the status of your credit accounts. If you maintain joint accounts during this time, it's important to make regular payments so your credit record won't suffer. As long as there's an outstanding balance on a joint account, you and your spouse are responsible for it.

If you divorce, you may want to close joint accounts or accounts in which your former spouse was an authorized user. Or ask the creditor to convert these accounts to individual accounts.

By law, a creditor cannot close a joint account because of a change in marital status, but can do so at the request of either spouse. A creditor, however, does not have to change joint accounts to individual accounts. The creditor can require you to reapply for credit on an individual basis and then, based on your new application, extend or deny you credit. In the case of a mortgage or home equity loan, a lender is likely to require refinancing to remove a spouse from the obligation.

For More Information

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