

GENERAL GUIDE – BANKRUPTCY PROCEEDINGS
(Rates Effective 01/07/19 and are review annually by the courts)

For a creditor to make application to the Court to bankrupt a debtor, the creditor must first establish that the debtor has committed an ‘act of bankruptcy’ and your judgment debt must be for more than \$5000.00. The most common act of bankruptcy relied upon is a debtor’s failure to comply with a **Bankruptcy Notice**, requiring the creditor’s debt to be paid within 21 days.

The cost to file a **Bankruptcy Notice** with the Insolvency Trustee Service of Australia is **\$470.00**. In addition to this filing fee a fee will be charged by the solicitor who prepares the bankruptcy notice, this fee is generally around **\$470.00** inclusive of regular outlays such as faxes, phone calls, photocopying etc plus a further **\$21.50** to obtain a certified copy of the judgement giving rise to the action from the court. Once filed the notice must then be served personally on the judgment debtor and provided the service does not require excessive attempts or surveillance work by the agent the fee is generally around **\$90.00 in the Metropolitan area. (higher for rural or regional centres)**.

If the debtor does not comply with a Bankruptcy Notice within 21 days of service (and the notice has not been set aside by application of the debtor) or some other act of bankruptcy has occurred the creditor may proceed to make application to the Court for a **Creditor’s Petition** to be issued.

As with the initial **Bankruptcy Notice** a solicitor will draw up and file the **Creditors Petition** on your behalf, the fee for the solicitor to prepare the necessary notices is generally around **\$1300.00+gst**. The Court Filing Fee for a Creditors Petition is **\$3805.00** if the applicant is a Corporation or **\$1585.00** if the applicant is an individual, partnership or other entity. The Creditors Petition will be filed in court and the court will set a “Return Date” being the date of the sequestration hearing. Once filed in the court the Creditors Petition must also be served on the debtor personally no less than 5 clear business days before the Return Date. Nexus will take care of the service of these documents with an estimated cost of **\$90.00** for a routine metropolitan area service.

As with the **Bankruptcy Notice**, these costs assume that the document can be served on the debtor personally without significant difficulty and also that the debtor does not oppose the application.

There may be several hearings of the petition in the Court. If the Court is satisfied that the correct procedure has been followed and that the debtor should become made bankrupt, it will make a **Sequestration Order** against the debtor.

The solicitor will be required to attend to a number of matters during the course of the proceedings including attending at the Sequestration hearing. As a general guide, a company can expect to spend around **\$6500.00** to complete a bankruptcy while an individual or partnership applicant may expect to outlay around **\$5000.00**. **These are strictly a guide only**, solicitors fees are directly relative to the “degree of difficulty” in completing your specific application, many things can hinder the smooth execution of a bankruptcy application resulting in an increase in costs to applicant.

Solicitors Fees quoted are a general guide based upon our recent involvement in these types of proceedings. Bankrupting someone is complex process that can have many complications including an inability for us to serve the debtor personally within the strict time frames provided in these proceedings. In most cases a debtor must be handed the notices in person, this can prove to be a challenge if they are intent on hiding their whereabouts to avoid bankruptcy proceedings.

*In summary the ESTIMATED fees where the Applicant is a Company are:
(Deduct \$2220.00 from the filing fee if the Applicant is an Individual)*

Bankruptcy Notice

Filing fee \$470.00 + \$21.50 certified copy of Judgment	
Lawyers Professional Fees \$400+gst, plus	
Service Costs of \$90.00+gst	\$981.50 (Ex GST)

Creditors Petition

Bankruptcy search \$55.00 + \$3805.00 Petition filing fee	
Solicitors professional fees \$1250.00+GST plus	
service costs of \$90.00	\$5200.00 (Ex GST)

Sequestration

Bankruptcy search \$55.00	
Solicitors professional fees \$300.00+GST per hour to attend	
the hearing, estimate 1.5 hours	\$505.00 (Ex GST)

SUB TOTAL

Note: Court filing fees are GST exempt. \$6,686.50 (ex GST)

Some important points to remember:

- DO NOT** assume that all of the costs you outlay can or will be recovered.
- DO NOT** assume that the cost guidelines given above will be the ONLY costs you outlay.
- DO NOT** assume that this is a quick fix, it is not, the process often takes several months to complete.

We are happy to discuss the process with you in more detail any time, our ultimate aim is to secure payment of the money owed to you, **Nexus Collections charges no mark-up or margin on solicitors costs estimated in this guide, we only get paid when you get paid.**