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Hi, guys, thanks for joining again. It's Nic and Harmon break down debt.



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Hi, everybody, welcome back. Today Harmon and I are going to be talking a little bit about banking and the right to set off. A lot of people hear these terms, it's either the right to set off, or the banks have the right to offset on the accounts that are in their fund, we're going to talk a little bit about what this is, what the creditors are entitled to, and how this can affect you, as well as does that happen in a bankruptcy or consumer proposal? And am I able to get out of the right to set off if I file one of those things? Yeah, so it's a commonly asked question. I mean, it comes up all the time, actually, generally, we will be asked, you know, do I have to change my bank account if I file for insolvency? So it's, you know, it's not a rare ask question. So generally, when it's asked, there's there's two, two parts to that question, which we'll get into.



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But ultimately, like there's nothing wrong, where they, you know, we go over your decisions, we go over the options, essentially, the, so you can make an appropriate decision in regards to that. So let's get right into the neck. Okay, so I'm going to kind of defined what the right to set off is, when you sign up with a bank, and you have a bank account with them. And then you apply for credit. In that credit application, which we've all signed, I have them signed as well, it says that if the bank chooses to, they can set off on the amounts that are in your bank account.



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Essentially, if if you owe us money at any time, and you're delinquent, we can go into your bank account and take those funds to offset the amount that you owe us on the credit card. So that's the right to set off, the banks don't need a court order to do it, they don't have to notify you that they're going to do it, they don't need your permission to do it. And they can take it from your checking account savings account to TFSA is they can pull it out of all of those places, not out of your rmps. But they can pull it out of any regular checking, savings or TFSA account. So you need to be aware that this could happen to anybody at any time.



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If there's a debt owing within the same financial institution, they can go in and take that money and enforce their right to set off. Yeah, generally, like, you know, people will say, well, it's never happened to me in the past. But the reason for that is because obviously while you've been a good customer with them, and they've been you know, you're making your payments on time, it's not an exercise that they will essentially turn towards to take their money. So but a bank has the right so you only typically, when you are delinquent, you start missing payments, as Nick mentioned, that's when you will start to see because that's the point where they can come in the bank can say, okay, we're going to go into the account and take an X amount of dollars, because there's money there, and we're missing our payments.



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So that's the reason why you don't see that happening all the time, because the bank did not have an issue with your account. But when you do start falling behind, you will start to see typically, that the bank will start to take certain actions in regards to the rights that they have specially in regards to the exercise for the right of set off. Right. And so one of the questions that I get is what can other banks go into my bank account and take money out of that? The answer is no, unless they have a garnishment order. And we can go into that in another podcast on what garnishments look like and garnishment orders and how to deal with them. But ultimately, other banks don't have the right to set off on the funds that are in another Institute's savings or checking account. So you're really only dealing with within the own creditor issues that they're going to have this right to set off.



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So when you file a bankruptcy or consumer proposal, we implement something called a stay of proceedings. What that stay of proceedings does it stop any garnishments, collections activity and judgments against you, but it does not stop the right to set off. So that's why if you visit a licensed insolvency trustee and you have debts at the bank that you borrow from the trustee will typically recommend that you secure your income at another financial institution. Yes, so we always recommend that it doesn't have to be any specific institutions. We always say you know, whatever is more convenient for you based on where you're located. It could be useful if you switch that prior to filing just because you're only protecting yourself you know, it's not it's not a restriction to entry when filing for insolvency. So you know, it's nothing that we cannot fall into



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Without, but you know, we are essentially trying to guide you through the process, through the act on how it works and what sort of rights are out there to make sure that you know, you're not sexually stranded there without rent money, because you weren't aware that there's the right of set off, can really throw off your budget for your money for that month has been taken now. So that's essentially the free tip that we're able to provide in this session.



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And one of my biggest recommendations for my clients, and I say this all the time, if you're going through an insolvency, and you have to change your bank account anyways, look for the financial institution that's going to provide you with some type of compensation or gift or something like that, to switch to their bank account. Lots of banks have promotions, where they offer \$300, or points or something along those lines to switch banking to that new financial institution. So this might be an opportunity for you to kind of get a leg up on your savings.



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And yes, it's true, you know, sometimes you will have to switch any bills, you're keeping our possibly going out of that old account, there were automatic set of payments. But it could be, you know, a large benefit, in return for a small minor, minor inconvenience to you for having to switch some of those accounts. And some banks even provide courtesy service to help you move those previous builds from the accounts over to the new count, so that you don't have to call, you know, each different account to switch the payment.



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But you will can always check with the institution for those sorts of options if they are available, given where you're located and the services that the specific institution provides. And one of the other set off things I guess the final thing that I tend to find when I talking about the right to set off, also is the CRA. So the CRA has the right to set off as well. Let's just give an example that you have some income tax debt, you filed a bankruptcy or consumer proposal, the CRA was included in it, you owe them \$12,000 or something like that.



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The next following year, you go and file your taxes, and you realize that you're entitled to a refund, whew, refund time, love refund time, it's my favorite time of year. So a lot of clients will get upset that they don't receive that refund, it's because the CRA has the right to set off, they're not going to give you back a refund if you owe them money. And if we think about it logically, that's the way I would run my life. Like if I owed my friend \$20. And she owes me 60, I'm not going to pay her back the \$20 cuz she still owes me 60 bucks. So that's also a right to set off with the CRA that you need to be aware of. It's common.



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We have seen that word, you know, somebody who's coming in for a consultation with us has come in and was relying on a large refund for to essentially continue their monthly expenses ongoing because perhaps the monthly income was low or for another reason. And it turns out that the refund never came through. And as Nic mentioned, yeah, most of the time, it's because the right offset off was applied. So you may not have heard that term before but perhaps have essentially seen examples of it and just didn't know that that's what it was about. So that kind of summarizes the right to set off and other things that you might encounter if again, your licensed insolvency trustee recommends that you change your bank account before you file.



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And again, we always recommend that you know, when you're listening to our podcast, this is for information purposes only. If you do have questions about your particular situation, it's best for you to reach out to your own licensed insolvency trustee firm and ask them for advice about your own particular situation. This doesn't constitute legal advice as well. If you're dealing with anything that's a legal matter, it's best to talk to a

lawyer and you can contact BNA Debt Solutions at 403-232-6220 to talk to either Harmon out of our eye about your personal situation.



09:03

Awesome. Thanks for tuning in again, guys. We appreciate it. And as always, if there's any suggestions, perhaps in topics you'd like us to cover, please feel free to contact us and make any suggestions. We hope you have. We have a great time until we meet again on the next podcast. Once again. It's Nic and Harmon break down debt. Have a great week, everybody