



# How Do I Cancel a Reaffirmation Agreement?

**Note: This instructional packet is not legal advice. You should not use this packet "as-is." Instead, you should modify this packet after you carefully consider the facts in your case. If you need specific legal advice, you should consult an attorney.**

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## What Is a Reaffirmation Agreement?

When you declare bankruptcy, some or all of your debts are discharged and you are no longer legally responsible for paying them back.

A reaffirmation agreement is a new contract between you and the creditor where you agree to pay a debt voluntarily that would have been discharged in your bankruptcy case.

When you reaffirm a debt, you agree to be personally liable for paying it back.

### **\* A reaffirmation agreement is completely voluntary \***

Examples of obligations that creditors may ask you to reaffirm include a:

- car loan; or
- home loan.

If you want to reaffirm your car, a judge may need to approve the reaffirmation agreement before it goes into effect.

However, if you reaffirm a home loan, it may be effective without a court hearing or a judge's approval.

## Can I Change My Mind and Cancel the Agreement?

Yes.

You can cancel (or "rescind") your reaffirmation agreement, even if a judge has already approved it.

**NOTE: WE STRONGLY RECOMMEND THAT YOU SPEAK WITH AN ATTORNEY TO ADVISE YOU ABOUT THE CONSEQUENCES OF CANCELLING A REAFFIRMATION AGREEMENT IN YOUR CASE.**

But you have a very limited time to cancel the reaffirmation agreement. The deadline to cancel a reaffirmation agreement is the later of these two dates:

- 60 days after the date the agreement is filed with the Court; or
- the date the Bankruptcy Court issues a discharge in your case.

If the judge approved a reaffirmation agreement on your car loan, and you are considering rescinding the agreement, you should talk to an attorney. The creditor may repossess your car if you rescind the agreement for the car loan.

If you have filed a reaffirmation agreement on your home loan, you can rescind your reaffirmation agreement, even if the judge states that he or she does not have the authority to approve or deny the agreement.

Please note that the reaffirmation agreement on a home loan may be still binding simply by you signing the agreement, even if the judge states that he or she does not have the authority to approve the agreement. It is important that you consult an attorney as soon as possible about whether to rescind this agreement, and to find out what effect it may have on a pending loan modification.

## What Information Do I Need to Cancel My Reaffirmation Agreement?

1. If you want to cancel your reaffirmation agreement, it is a good idea to gather the following information:
  - What date was the reaffirmation agreement filed with the Court?
  - What is the name and mailing address for the creditor (or creditor's attorney) listed on the reaffirmation agreement filed with the Court?
  - Has the Court issued a discharge in the case? If so, when?
2. Remember that the deadline to cancel the agreement is either the date of discharge, or 60 days after the reaffirmation agreement was filed with the Court, **whichever date is later**. If both dates have passed, you should contact an attorney for further assistance.
3. To cancel a reaffirmation agreement, **you must notify the creditor**. It is a good idea to notify the creditor in writing via **certified mail with a return receipt postcard** so you have proof that you have rescinded the agreement.

4. Also, it is a good idea for you to file a notification of this cancellation with the Bankruptcy Court, so there is a record on your case docket.

## **What Steps Do I Take to Cancel My Reaffirmation Agreement?**

After you have gathered the information indicated above, you can take the following steps to cancel your reaffirmation agreement:

1. Complete and sign the blank version of the **REAFFIRMATION RESCISSION LETTER**, based on the sample version in this packet, and make one (1) copy for your records.
2. Send the original **REAFFIRMATION RESCISSION LETTER** to the creditor (or creditor's attorney) via certified mail with a green return receipt postcard. Make one (1) copy of the certified mail receipt for your records.
3. When you receive the green return receipt postcard in the mail (which confirms the creditor received the Reaffirmation Rescission Letter) make one (1) copy of each side of the postcard.
4. Complete and sign the blank version of the Notice of Rescission of Reaffirmation Agreement, based on the sample in this packet. Make one (1) copy for your records.
5. Assemble a **NOTICE OF RESCISSION OF REAFFIRMATION PACKET** containing the following information:
  - Completed and signed Notice of Rescission of Reaffirmation Agreement;
  - Completed and signed copy of the Reaffirmation Rescission Letter that you send to the creditor;
  - Copy of both sides of the green return receipt postcard you received after the creditor received the Reaffirmation Rescission Letter; and
  - Copy of the stamped certified mail receipt you received when you mailed the Reaffirmation Rescission letter.

6. Make one (1) copy of the entire **NOTICE OF RESCISSION OF REAFFIRMATION PACKET**. This will be YOUR COPY.
7. Paper-clip (don't staple) the **NOTICE OF RESCISSION OF REAFFIRMATION PACKET**, and staple YOUR COPY.
8. Take both packets to the same Bankruptcy Court filing window where you originally filed your bankruptcy case.
9. Give both packets to the clerk. The clerk will:
  - Stamp both packets
  - Keep the **NOTICE OF RESCISSION OF REAFFIRMATION PACKET**
  - Give you back YOUR COPY.
10. Keep YOUR COPY for your records. Your stamped copy is the best proof that you cancelled the reaffirmation agreement.