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Sixteen Rules About Choosing Which Debts to Pay First

You should direct your limited resources to what is most necessary for you or your family-- typically food, clothing, shelter and utility service. Unfortunately, there is no universally applicable list of the order in which debts should be paid. Everyone's situation will be different. Instead what follows are sixteen rules about how to set priorities, from *Surviving Debt* (National Consumer Law Center, 3rd ed. 1999).

1. **Always Pay Family Necessities First.** Usually this means food and essential medical expenses. You may want to look at ways to keep these expenses to a minimum as discussed in Chapter Two.
2. **Next Pay Your Housing-Related Bills.** Keep up your mortgage or rent payments if at all possible. If you own your home, real estate taxes and insurance must also be paid unless they are included in the monthly mortgage payment. Similarly, any condo fees or mobile home lot payments should be considered a high priority. Failure to pay these debts can lead to loss of your home.
If you are having very serious unresolvable problems which require you to move to a cheaper residence, you might choose to stop paying the mortgage or rent. When you do so, you should not use that money to pay other debts, but rather save it as a fund to use for moving. Dealing with mortgage debts is discussed in more detail in Chapters Nine through Twelve. Rent payments and dealing with landlords are discussed in Chapter Thirteen.
3. **Pay What You Must to Keep Essential Utility Service.** While this may not always require full payment (such as during a winter moratorium on disconnections), whatever payments are necessary should be made if at all possible. Working hard to keep your house or apartment makes little sense if it is not livable because you have no utilities. Options for dealing with utility payments are discussed in Chapter Fourteen.
4. **Pay Car Loans or Leases Next If You Really Need Your Car.** If you need your car to get to work or for other essential transportation, you will usually make your car loan or lease payments next after food, housing costs, medical expenses, utilities, and clothing. You may even want to pay for the car first if the car is essential to holding onto your job.
If you do keep the car, stay current on your insurance payments as well. Otherwise the creditor may buy for you at your expense even more costly collision and theft insurance that gives you much less protection. In most states it is also illegal not to have automobile liability coverage. If you can do

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without your car or one of your cars, you not only save on car payments, but also on gasoline, repairs, insurance, and the like. Car loan debts are discussed in Chapter Fifteen.

5. **You Must Pay Child Support Debts.** These debts will not go away and can result in very serious remedies--including prison for nonpayment.
6. **Income Tax Debts Are Also High Priority.** You must pay any income taxes you owe that are not automatically deducted from your wages, and you certainly must file your federal income tax return even if you cannot afford to pay any balance due. The government has many rights which other creditors do not have, particularly if you do not file your tax return. Remember, though, if you have lost income due to a change of circumstances, your tax obligations will also be reduced. Pay only what is necessary.
7. **Loans Without Collateral Are Low Priority.** Most credit card debts, attorney, doctor and hospital bills, and other debts to professionals, open accounts with merchants, and similar debts are low priority. You have not pledged any collateral for these loans, and there is rarely anything that these creditors can do to hurt you in the short term. Many won't bother to try to collect in the long term.
8. **Loans With Only Household Goods Collateral Are Also Low Priority.** Sometimes a creditor requires you to put some of your household goods up as collateral on a loan. You should generally treat this loan the same as an unsecured debt, that is as a low priority. Creditors rarely seize household goods because they have little market value, it is hard to seize them without court process, and it is time consuming and expensive to use a court process to seize them. See Chapter Sixteen.
9. **Do Not Move a Debt Up in Priority Because the Creditor Threatens Suit.** Many threats to sue are not carried out. Even if the creditor does sue, it will take a while for the collector to be able to reach your property, and much of your property may be exempt from seizure. On the other hand, non-payment of rent, mortgage and car debts may result in immediate loss of your home or car. Debt collection lawsuits and threats to sue are discussed in Chapters Five and Seven.
10. **Do Not Pay When You Have Good Legal Defenses to Repayment.** Some examples of legal defenses are that goods purchased were defective, or that the creditor is asking for more money than it is entitled to. If you have a legal defense, you should obtain legal advice to determine whether your defense will succeed. In evaluating these options, remember that it is especially dangerous to withhold mortgage or rent payments without legal

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advice. However, for all debts you should consider fighting back when you have a valid defense as discussed in Chapter Eight.

11. **Court Judgments Against You Move Up in Priority, But Often Less Than You Think.** After a collector obtains a court judgment, that debt often should move up in priority, because the creditor can enforce that judgment by asking the court to seize certain of your property, wages, and bank accounts. Nevertheless, how serious a threat this really is will depend on your state's law, the value of your property, and your income. It may be that all your property and wages are protected under state law, and then you should still pay this debt only after more pressing obligations. For more detail, see Chapter Seven. This is also a good time to obtain professional advice if you have not done so already.
12. **Student Loans Are Medium Priority Debts.** They should generally be paid ahead of low priority debts, but after top priority debts. Most delinquent student loans are backed by the United States and federal law provides special collection remedies against you which other creditors do not, such as seizure of your tax refunds and denying you new student loans and grants. These issues are discussed in Chapter Seventeen.
13. **Debt Collection Efforts Should Never Move Up a Debt's Priority.** Be polite to the collector, but make your own choices about which debts to pay based on what is best for your family. Debt collectors are unlikely to give you good advice. Debt collectors may be most aggressive to get you to pay debts which you should actually pay last. You can easily stop debt collection contacts and you have legal remedies to deal with collection harassment. See Chapter Five.
14. **Threats to Ruin Your Credit Record Should Never Move Up a Debt's Priority.** In many cases, when a collector threatens to report your delinquency to a credit bureau, the creditor has already provided the credit bureau with the exact status of the account. And if the creditor has not done so, a collector hired by the creditor is very unlikely to do so. In fact, your mortgage lender, your car creditor, and other big creditors are much more likely to report your delinquency (without any threat) than is a debt collector that threatens you about your credit record. See Chapter Six.
15. **Cosigned Debts Should Be Treated Like Your Other Debts.** If you have put up your home or car as collateral on a loan, that is a high priority debt for you if the other co-signers are not keeping the debt current. If you have not put up such collateral, treat cosigned debts as a lower priority. If others have cosigned for you and you are unable to pay the debt, you should tell

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your cosigner about your financial problems so that he or she can decide what to do about that debt.

16. **Refinancing Is Rarely the Answer.** You should always be careful about refinancing. It can be very expensive and it can give creditors more opportunities to seize your important assets. A short term fix can lead to long term problems. Some simple refinancing rules and techniques to avoid scams are discussed in Chapter Four.