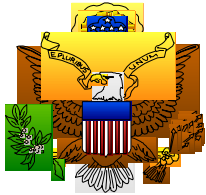


United States Bankruptcy Court
Eastern District of Missouri

moeb.uscourts.gov



Dana C. McWay
Clerk of Court

Chapter 13

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This booklet contains general information about Chapter 13 of the U.S. Bankruptcy Code.

While this information is accurate as of the date of publication, it should not be cited or relied upon as legal authority. This information should supplement, not substitute for advice of competent legal counsel. The Bankruptcy Court cannot give legal advice.

This pamphlet is available on the Court's website at http://moeb.uscourts.gov/pdfs/ch_13.pdf and provides hyperlinks to additional resources referenced herein. (06/08)

Basic Information about Chapter 13

Summary Chapter 13 bankruptcy is designed for individuals with regular income who are temporarily unable to pay their debts but who have sufficient income to make payments to their creditors. Unlike Chapter 7, Chapter 13 permits the debtor to retain possession of property, whether or not it is exempt, and allows the debtor to cure defaults and stop foreclosures or repossessions by making payments through the Chapter 13 plan. To be eligible for Chapter 13, the debtor's secured and unsecured debts may not exceed certain dollar amounts, and the debtor must attend a pre-filing credit counseling course.

In Chapter 13, the debtor files a plan with the court to repay debts over a three to five year period. The court must approve the plan. To be approved, the plan must meet certain guidelines. Additionally, the debtor must have paid all domestic support payments due since filing the bankruptcy petition and must have filed necessary tax returns with appropriate tax authorities. The debtor makes payments to an impartial Chapter 13 trustee, who distributes the payments to creditors in accordance with the plan. At completion of all payments, provided the debtor satisfies other requirements, the debtor will receive a discharge of most debts, including some debts that are not discharged in Chapter 7. This pamphlet elaborates on the events and requirements in a Chapter 13 case.

Filing Chapter 13 A Chapter 13 case begins with the filing of a petition. Generally, the petition is filed with the bankruptcy court located in the federal district where the debtor lives. Only an individual, or a husband and wife, who have regular income and who owe less than \$336,900 in unsecured debt and \$1,010,650 in secured debt may file Chapter 13. (This amount will change April 1, 2010). A [filing fee](#) is due at the time of filing and must be paid by the

attorney, or by cash, money order, or certified check from the debtor. With the court's permission, the fee may be paid in installments through the plan.

Along with the petition, the debtor must file bankruptcy schedules and statements, a list (matrix) containing the names and addresses of all entities on the schedules, a social security verification form, a certificate concerning credit counseling, and a Chapter 13 B22C Statement of Current Monthly Income. (See [Filing Requirements](#)).

Official Bankruptcy Forms can be purchased at an office supply store or may be downloaded from this Court's Internet site under [Official Forms](#). The Chapter 13 form plan is available on this Court's website under [Local Rules & Forms](#). Printed forms are NOT available at the Court. Failure to timely file these documents may result in dismissal of the case.

Chapter 13 Plan Within fifteen days of the petition, the debtor must also file a Chapter 13 plan and a certificate of service showing the debtor served the plan on the Chapter 13 trustee and all entities on the matrix. The plan must provide for payment of a fixed amount to the trustee on a regular basis. In this jurisdiction, the court requires a minimum monthly payment of \$75.00. Payments to the trustee must begin within 30 days of the petition. The debtor may request to have his employer send payments directly to the trustee. If the debtor's current monthly income is greater than the applicable median family income, the plan must provide for payments over five years. If it is less than the applicable median family income, the plan may be three years. The Bankruptcy Code and Local Rules specify how certain types of claims must be treated. Some debts, such as most taxes and domestic support claims, must be paid in full; others may receive partial payment, and still

others (such as home loans) generally cannot be modified. Because drafting a Chapter 13 plan requires familiarity with many rules and procedures, debtors are encouraged to seek legal assistance from an attorney. An attorney may be paid in installments through the plan.

Automatic Stay In most instances, the filing of a Chapter 13 petition imposes an “automatic stay” that prohibits collection and other action against the debtor and the debtor’s property. The automatic stay in Chapter 13 also applies to co-debtors; that is, it prohibits collection from an individual who is jointly liable with the debtor on a consumer loan. If the debtor had two prior cases dismissed within the past year, the automatic stay will not be effective in the new case. If the debtor had one prior case dismissed, the stay will terminate 30 days after filing. If relief from stay had been granted against particular real estate in a prior case, the stay may not protect that property in a new case.

Meeting of Creditors Within 20 to 50 days of filing the petition, the Chapter 13 trustee will hold the meeting of creditors. The debtor (both husband and wife in a joint case) must attend and failure to do so may result in dismissal of the case. The debtor must provide the trustee with certain pay records and tax returns prior to the meeting of creditors. The purpose of the meeting is to allow the trustee and creditors to ask questions regarding the debtor’s financial affairs and the debtor’s proposed Chapter 13 plan.

Confirmation Approximately 20 to 45 days after the meeting of creditors, the court will hold a confirmation hearing concerning the Chapter 13 plan. To be confirmed, the plan must treat claims as required by the Bankruptcy Code and Local Rules and must pay creditors at least as much as they would have received in Chapter 7. The debtor must devote all “disposable income” to the plan, and the plan and petition must have been filed in good faith. Additionally, the debtor must have filed all federal and state tax returns due for the 4 years prior to the petition, and must be current in paying all domestic support

obligations. The trustee or creditors may object if the plan does not meet the requirements for confirmation.

Payment of Claims To receive payment from the Trustee, a creditor must file a proof of claim. At the beginning of a Chapter 13 case, the court sends notice of the case to all parties listed on the debtor’s matrix and advises of various deadlines, including the date for filing proofs of claim.

Discharge Typically, a Chapter 13 debtor receives a discharge upon completion of all plan payments. A debtor is eligible for the discharge after completing a post-petition financial management course and filing a statement that the debtor owes no unpaid domestic support obligations. The court cannot issue a discharge if the debtor received a discharge in a Chapter 13 case filed within 2 years of the new case or in a Chapter 7, 11 or 12 case filed within 4 years of the new case.

The Chapter 13 discharge releases the debtor from all debts provided for in the plan with exceptions for certain debts the law does not permit to be discharged. Such debts include certain taxes, including taxes for which returns were not filed, unsecured claims, debts incurred by fraud, domestic support obligations, student loans, criminal fines, civil restitution awards, debts from injury caused while driving under the influence, and certain long-term debts (home loans). In very limited circumstances, a debtor may receive a “hardship discharge” before completing all plan payments.

Chapter 13 Restrictions While a Chapter 13 case is pending, the debtor must seek court approval to incur new debt or sell assets (e.g. buy or sell a home). Additionally, while the case is pending, the debtor must remit all tax refunds to the Trustee and must file an annual statement disclosing the amount and source of the debtor’s income.

Dismissal and Conversion The debtor may voluntarily dismiss the Chapter 13 case or may

convert to Chapter 7 at any time. A fee is required for conversion. If the debtor fails to make plan payments, the court will ordinarily dismiss the case on motion of the trustee or a creditor.

Chapter 13 Filing Requirements

(See [website](#) for detailed instructions)

- 1) [Filing Fee](#) (or installment application)
- 2) Voluntary Petition
- 3) Schedules A – J, Summary of Schedules & Statistical Summary of Schedules w/ signed Declaration
- 4) Statement of Financial Affairs w/signed Declaration
- 5) Chapter 13 Plan
- 6) Social Security Number Verification Form (B21 Form)
- 7) Attorney Compensation Disclosure Statement (if debtor has counsel)
- 8) Attorney Fee Election Form (if counsel)
- 9) Matrix & Verification of Creditor Matrix
- 10) Credit Counseling Certificate
- 11) Current Monthly Income Calculation Form (B22 C Form)
- 12) Motion for Wage Order

Items 1, 2, 6, 7, 9, and 10 must be filed with the petition or the case will be dismissed.

Guideline for Creditor Matrix

(See [website](#) for detailed instructions)

1. Type using standard typefaces (Courier) in 10-point font, justified left, single-spaced and in a single column. Type only on one side of the page. Do not use all capital letters.
2. Leave at least a one-inch margin at the top, bottom, and sides of the page.
3. Creditor names must have no more than 50 characters per line. All other address lines must have no more than 40 characters. Creditors must have at least one blank line between each entry. Account numbers should not appear.