

## Fee Issues in Bankruptcy Courts

Below is a discussion of those fees in bankruptcy courts that are impacted by the changes included in the Deficit Reduction Act. Fees that are not affected by the changes in the Act will remain at the current level.

### Chapter 7 Filing Fee

Effective April 9, 2006, the total fee due at filing for a chapter 7 case will be \$299; this amount includes the statutory filing fee of \$245, the \$39 administrative fee and the \$15 case trustee fee. This fee will apply to all new cases filed on or after April 9, 2006.

### Chapter 13 Filing Fee

Effective April 9, 2006, the total fee due at filing for a chapter 13 case will be \$274; this amount includes the statutory filing fee of \$235 and the \$39 administrative fee. This fee will apply to all new cases filed on or after April 9, 2006.

### Chapter 11 Filing Fee

The Chapter 11 filing fee will not change from its current amount of \$1,000. It appears that Congress intended to increase chapter 11 filing fees from \$1,000 to \$2,750. However, there is a drafting error in the language of the Deficit Reduction Act which references the incorrect statutory subsection. Thus, the chapter 11 fee, at this time, is unaltered. We will keep you apprised of Congress's actions to address this drafting error.

### Fee for Converting to a Chapter 11

The increases to the chapter 7 and chapter 13 fees mandated by the Deficit Reduction Act will impact the fee to convert a chapter 7 or chapter 13 case to a chapter 11 case, as prescribed by 28 U.S.C. § 1930 (a). Therefore, as of April 9, 2006:

- the fee for converting a chapter 7 case to a chapter 11 will be \$755 - the difference between the filing fee for a chapter 11 (\$1000) and the statutory fee for filing a chapter 7 case (\$245),
- The fee for converting a chapter 13 case to a chapter 11 case will be \$765 (the difference between the statutory filing fee for a chapter 11 case (\$1,000) and the statutory fee for filing a chapter 13 case (\$235).

### Miscellaneous Fees

The changes to the fees for appellate, district, and bankruptcy courts also impact certain fees in the Bankruptcy Court Miscellaneous Fee Schedule. Several of the miscellaneous fees are linked to statutory filing fees, and thus, would change when the statutory fee changes. However, the Judicial Conference, at its March 2006 session, approved a recommendation from the Court Administration and Case Management Committee, in connection with the Bankruptcy Committee, to stay all increases in miscellaneous fees until these committees have had an opportunity to review the increases at their June meetings.

Following is a list of fees that are linked to the filing fees increased by the Deficit Reduction Act:

**Item 6:** The adversary filing fee is linked to the district court civil action filing fee. On April 9, the civil action filing fee will increase to \$350. However, the fee for filing an adversary proceeding in a bankruptcy case will remain \$250.

**Item 11:** The fee for reopening a case is the same as the statutory filing fee for the chapter under which the case was originally commenced. After April 9, 2006, the fee for reopening a case will remain the same as the amount of the statutory filing fee for the appropriate chapter prior to April 9. Therefore, even after April 9,

- the fee charged for reopening a chapter 7 case will remain \$220;
- the fee for reopening a chapter 11 case will remain \$1,000; and
- the fee for reopening a chapter 13 case will remain \$150.

**Item 15:** The fee for docketing an appeal is linked to the fee for filing an appeal in the Court of Appeals. Although the fee for filing an appeal in the Court of Appeals is increasing to \$450, the fee for docketing an appeal in the bankruptcy courts will remain \$250. In addition,

**Item 21,** the fee for docketing a cross appeal, is also linked to the fee for filing an appeal in the Court of Appeals, and will likewise remain \$250.

**Item 19:** The fee for splitting a joint case is linked to the current filing fee for the chapter under which the case was originally commenced. However, due to the Judicial Conference action, the fee for splitting a case will not change. Therefore, even after April 9, 2006, the fee for splitting cases will remain as follows:

- the fee charged for splitting a chapter 7 case will remain \$220,
- the fee for splitting a chapter 11 case will remain \$1,000, and
- the fee for splitting a chapter 13 case will remain \$150.

**Item 16:** The fee for filing a chapter 15 proceeding is linked to the fee for filing a chapter 11. In the event that Congress acts to correct the drafting error discussed above, the fee for filing a Chapter 11 case will increase. However, due to the Judicial Conference action, the total fee for collected at the time of filing a chapter 15 will remain \$1,039, which includes the \$1,000 statutory fee for filing a chapter 11 case, and the \$39 administrative fee.

### Bankruptcy Court Miscellaneous Fee Schedule<sup>1</sup>

Following are fees to be charged for services provided by the bankruptcy courts. No fees are to be charged for services rendered on behalf of the United States, with the exception of those specifically prescribed in items 1, 3, and 5, or to bankruptcy administrators appointed under Public Law No. 99-554, § 302(d)(3)(I). No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A.

- (1) For reproducing any record or paper, \$.50 per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record or paper requested is available through electronic access.
- (2) For certification of any document or paper, whether the certification is made directly on the document or by separate instrument, \$9. For exemplification of any document or paper, twice the amount of the charge for certification.
- (3) For reproduction of recordings of proceedings, regardless of the medium, \$26, including the cost of materials. This fee shall apply to services rendered on behalf of the United States, if the reproduction of the recording is available electronically.
- (4) For amendments to a debtor's schedules of creditors, lists of creditors, matrix, or mailing lists, \$26 for each amendment, provided the bankruptcy judge may, for good cause, waive the charge in any case. No fee is required when the nature of the amendment is to change the address of a creditor or an attorney for a creditor listed on the schedules or to add the name and address of an attorney for a listed creditor.
- (5) For every search of the records of the bankruptcy court conducted by the clerk of the bankruptcy court or a deputy clerk, \$26 per name or item searched. This fee shall apply to services rendered on behalf of the United States if the information requested is available through electronic access.
- (6) For filing a complaint, a fee shall be collected in the same amount as the filing fee prescribed in 28 U.S.C. § 1914(a) for instituting any civil action other than a writ of habeas corpus. If the United States, other than a United States trustee acting as

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<sup>1</sup>Issued in accordance with 28 U.S.C. § 1930(b).

a trustee in a case under title 11, or a debtor is the plaintiff, no fee is required. If a trustee or debtor in possession is the plaintiff, the fee should be payable only from the estate and to the extent there is any estate realized. If a child support creditor or its representative is the plaintiff, and if such plaintiff files the form required by § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

- (7) For filing or indexing any document not in a case or proceeding for which a filing fee has been paid, \$39.
- (8) In all cases filed under title 11, the clerk shall collect from the debtor or the petitioner a miscellaneous administrative fee of \$39. This fee may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Federal Rule of Bankruptcy Procedure 1006.
- (9) Upon the filing of a petition under chapter 7 of the Bankruptcy Code, the petitioner shall pay \$15 to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). An application to pay the fee in installments may be filed in the manner set forth in Federal Rule of Bankruptcy Procedure 1006(b).
- (10) Upon the filing of a motion to convert a case to chapter 7 of the Bankruptcy Code, the movant shall pay \$15 to the clerk of court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). Upon the filing of a notice of conversion pursuant to section 1208(a) or section 1307(a) of the Code, \$15 shall be paid to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). If the trustee serving in the case before the conversion is the movant, the fee shall be payable only from the estate that exists prior to conversion.
- (11) For filing a motion to reopen a Bankruptcy Code case, a fee shall be collected in the same amount as the filing fee prescribed by 28 U.S.C. § 1930(a) for commencing a new case on the date of reopening, unless the reopening is to correct an administrative error or for actions related to the debtor's discharge. The court may waive this fee under appropriate circumstances or may defer payment of the fee from trustees pending discovery of additional assets. If payment is deferred, the fee shall be waived if no additional assets are discovered.
- (12) For each microfiche sheet of film or microfilm jacket copy of any court record, where available, \$5.
- (13) For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, \$45.
- (14) For a check paid into the court which is returned for lack of funds, \$45.

- (15) For docketing a proceeding on appeal or review from a final judgment of a bankruptcy judge pursuant to 28 U.S.C. § 158(a) and (b), the fee shall be the same amount as the fee for docketing a case on appeal or review to the appellate court as required by Item 1 of the Courts of Appeals Miscellaneous Fee Schedule. A separate fee shall be paid by each party filing a notice of appeal in the bankruptcy court, but parties filing a joint notice of appeal in the bankruptcy court are required to pay only one fee. If a trustee or debtor in possession is the appellant, the fee should be payable only from the estate and to the extent there is any estate realized.
- (16) For filing a Chapter 15 proceeding, the fee shall be the same amount as the fee for a case commenced under chapter 11 of title 11 as required by 28 U.S.C. § 1930(a)(3).
- (17) The court may charge and collect fees commensurate with the cost of providing copies of the local rules of court. The court may also distribute copies of the local rules without charge.
- (18) The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with the detailed fee schedule issued by the Director of the Administrative Office of the United States Courts.
- (19) When a joint case filed under § 302 of title 11 is divided into two separate cases at the request of the debtor(s), a fee shall be charged equal to the current filing fee for the chapter under which the joint case was commenced.
- (20) For filing a motion to terminate, annul, modify, or condition the automatic stay provided under § 362(a) of title 11, a motion to compel abandonment of property of the estate pursuant to Rule 6007(b) of the Federal Rules of Bankruptcy Procedure, or a motion to withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d), \$150. No fee is required for a motion for relief from the co-debtor stay or for a stipulation for court approval of an agreement for relief from a stay. If a child support creditor or its representative is the movant, and if such movant files the form required by § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.
- (21) For docketing a cross appeal from a bankruptcy court determination, the fee shall be the same amount as the fee for docketing a case on appeal or review to the appellate court as required by Item 1 of the Courts of Appeals Miscellaneous Fee Schedule. If a trustee or debtor in possession is the appellant, the fee should be payable only from the estate and to the extent there is any estate realized.