CHAPTER 13 TRUSTEE, EDKY:

"POSITION PAPER"
ON
PROJECTED DISPOSABLE INCOME ISSUES

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SUBJECT TO CHANGE WITHOUT NOTICE

The attached handout is an <u>over-simplified guide</u> to determining a debtor's projected disposable income in a chapter 13 case in the Eastern District of Kentucky. It is not intended to be a comprehensive instruction manual on disposable income and has little, if any, application in other jurisdictions.

Practitioners must have – at a minimum – a basic understanding of bankruptcy law and of chapter 13 practice in order for this handout to be useful.

These materials generally reflect my interpretation of the provisions of the Bankruptcy Code (as amended by BAPCPA), of Federal Rules of Bankruptcy Procedure, of local rules and forms, and of applicable case decisions.

As the trustee in the EDKY, I reserve the right to take a contrary position in any particular case depending on the facts of that case, and I reserve the right to argue an interpretation of the law that may differ from that set forth in these handouts. The information contained herein is subject to change without notice.

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Issue	Court's Ruling (if Any)	Trustee's Position/Comments
Is projected disposable income calculated per Form B22C or per Schedules I & J?	"Projected disposable income" is based on Schedules I & J, not Form B22C. Riggs, 06-20826 (02/27/07); See also Niehoff, 08-21211 (10/21/08).	The amount by which income exceeds expenses as shown on Line 20.c. of Schedule J should be the amount of the plan payment. The trustee will determine the amount that will be distributed to general unsecured creditors through the plan.
If Form B22C is not relevant in calculating projected disposable income, what purpose does it serve?	The debtor's "applicable commitment period" (ACP) is determined by Form B22C. If the debtor was below-median per Form B22C based on the debtor's CMI, but because of a change in circumstances is above-median per Schedules I and J, the ACP is still 3 years. Hicks, 07-50701 (10/22/07).	The ACP is based on the debtor's "current monthly income" (CMI). See § 101(10A). A debtor whose CMI is above-median as calculated on Form B22C has a 5-year ACP. § 1325(b)(4). In many instances, the trustee reviews the accuracy of a debtor's CMI; compares the household size claimed on Form B22C with the number of dependents on Schedule I and J and the number of dependents on the debtor's tax returns; and verifies that the correct median income figure was used.
Must the income of a nonfiling spouse or other significant other be included on Form B22C?	Form B22C must show the income of a nonfiling spouse to determine the debtor's ACP. Hauryluck, 08-51936 (12/04/08).	The ACP is determined based on the income of the debtor and of the debtor's spouse (regardless of whether or not it is a joint case). Even if the debtor and nonfiling spouse are separated at the time of the filing of the petition, the nonfiling spouse's income must be included in calculating the ACP. § 1325(b)(4)(A)(ii). In addition, the debtor's CMI on Form B22C must include any amount paid by any entity on a regular basis for the household expenses of the debtor or

		the debtor's dependents. § 101(10A)(B). Therefore, the income of a roommate, significant other, or family member living with the debtor might need to be included in determining the debtor's ACP.
Must the income of a nonfiling spouse or other significant other be included on Schedules I and J?	Schedules I and J must show the income and expenses of the nonfiling spouse to determine the debtor's projected disposable income. Hauryluck, 08-51936 (12/04/08).	Generally, Schedules I and J should reflect the income and expenses of the household, including contributions from roommates, significant others, or family members living in the debtor's household. However, if the debtor and non-filing spouse or other co-habitant keep separate bank accounts and really maintain separate finances, there may be a bona fide reason for excluding the income and expenses of the co-habitant from Schedules I & J. See also the discussion later herein regarding the expenses of the nonfiling spouse.
Can a debtor with an ACP of 5 years propose a plan that lasts less than 60 months (e.g., 58 months)?	A debtor with above-median income on Form B22C has a 5-year ACP and must propose a 60-month plan. See Niehoff, 08-21211 (10/21/08).	Of course if all claims are paid in full in less than 60 months the plan will be completed, but the plan should not attempt to provide for a shorter duration. § 1322(d)(1) provides that the plan may not provide for payments over a period that is longer than 5 years. Therefore, if a debtor with a 5-year ACP needs to suspend plan payments, there is no room to add the suspended payments to the end of the plan. The suspended payments must be cured, usually by increasing plan payments.
Can a debtor with an ACP of 3 years propose a plan that lasts less than 36 months?	*There has been no specific ruling yet.*	Even if the debtors have below-median income levels and would qualify for a chapter 7 case, the trustee believes that the *quid pro quo* for getting the benefits of a chapter 13 is a commitment to stay in

		the plan for 36 months. If the attorney's fees (or secured claims, if applicable), are paid in full in less than 36 months, the debtor can explore other options such as converting to 7, or requesting a hardship discharge.
Can a debtor with an ACP of 3 years propose a plan that lasts LONGER than 36 months?	*There has been no specific ruling yet.*	Section 1322(d)(2) provides that the court, for cause, may approve a longer period not to exceed 5 years. The trustee has never objected to a 60-month plan for a below-median debtor. In many instances the only way the debtor can afford plan payments is to stretch them out over 60 months.
Can the debtor propose a 0% plan (i.e., a plan that provides for no distribution to unsecured creditors)?	*There has been no specific ruling yet.*	The trustee will object to a plan that specifically provides for a 0% distribution to unsecured creditors. However, if a 0% plan is the result of a plan that meets the disposable income test, it can be confirmed.
Some income, such as social security income, income from child support, or certain other income, is not included in the statutory definition of "disposable income" of § 1325(b)(2), and is therefore not included on Form B22C. Does it have to be included on Schedule I?	*There has been no specific ruling yet, but the Court has ruled that the debtor's projected disposable income is forward-looking and is based on the debtor's anticipated income per Schedule I. The court has also ruled that the debtor must show an ability to make plan payments.* *See Riggs, 06-20826 (02/27/07); Lacny, 07-50184 (10/25/07).*	All income from all sources must be disclosed on Schedule I to calculate projected disposable income.

Rule 1009(a) says that a debtor may amend the schedules as a matter of course at any time, so if the income on Schedule I isn't accurate, it can be cured by amendments, right?	**"The importance of filing accurate schedules at the outset cannot be overemphasized."** Gullette, 03-10995 (11/02/04) (old law case, but analysis is still relevant). See also Lacny, 07-50184 (10/25/07) ("Furthermore, **the Debtors should ensure that the schedules are complete and accurate so that the Trustee and Court are not forced to spend excessive resources deciphering the schedules**."); (" '**great care and complete honesty in the presentation of income and expense information are standards against which debtors and their lawyers will be measured**.' ").	Debtors' attorneys often do not spend sufficient time reviewing the accuracy of the debtor's income on Schedule I. Part of this may be attributed to a reliance on software which gives the attorney limited options for completing Schedule I, such as allowing the attorney to choose between CMI or a monthly income based on the debtor's most recent paystub as the income amount for Schedule I. A debtor's CMI may or may not be indicative of a debtor's projected income on Schedule I. And a recent paystub alone is rarely reflective of a debtor's true average monthly income. In addition to reviewing CMI, the trustee reviews tax returns and paystubs and compares income on Schedule I with: (1) average monthly income based on previous year's tax returns; (2) average monthly income based on current paystubs; and (3) average monthly income based on year-to-date wages on most recent paystub. Debtors' attorneys should perform a similar review prior to filing the petition. Early in the year, the attorney should compare the debtor's monthly income as calculated by the software with the average monthly income based on the prior year's W-2's and tax returns. By April or May, the attorney should also be comparing the debtor's monthly income with the average of the YTD earnings reported on the debtor's paystubs. By October, the average of the YTD income from the paystubs is likely a more accurate indicator of

		the debtor's average monthly income. If there are discrepancies in any of the above comparisons, why? Has the debtor changed jobs? Is there overtime or bonus income that must be considered or explained? Did the attorney or the attorney's staff do the math incorrectly? (There are still attorneys who take the weekly income and multiply by 4 to come up with monthly income). Is it a fluke in the employer's pay periods that causes the YTD income (or CMI) to be artificially inflated? Is income seasonal, so that the debtor earns more in some months than in others? Legitimate reasons for the discrepancies should be explained on Schedule I. Otherwise, the trustee will conclude that the income is underreported on Schedule I and will seek an increase in plan payments.
Must overtime income be reported on Schedule I, especially if the debtor is concerned that the overtime may be cut?	*There has been no specific ruling yet, but in a colloquy from the bench with a debtor's attorney, Judge Howard indicated that a debtor who historically has worked overtime would be expected to include overtime pay on Schedule I, absent evidence that the debtor is no longer working overtime.*	Overtime income must be included on Schedule I if debtor has historically worked OT. Statements such as "my employer says OT will be cut" or "my OT is not guaranteed" will not justify omitting the OT income from Schedule I. However, the situation may be different if the debtor can present proof that overtime has been cut, or can offer a valid explanation that the overtime s/he worked was only temporary (for example, due to seasonal work, or covering for absent employees). This information should be explained on Schedule I. If the OT income is included on Schedule I but the

		employer subsequently does eliminate OT, the debtor can always file a motion to modify the plan. An amended Schedule I and recent paystubs should be provided.
How should bonuses and performance awards be addressed?	*The Court has dismissed cases where the debtor commits to paying bonuses into the plan but then "forgets" to send the payment in – often with no opportunity to make up the missed payment.*	Either average the anticipated bonus income and include it on Schedule I, or propose to pay all bonuses into the plan in addition to plan payments.
How should income be reported for a debtor whose income is based on commissions (like a real estate agent or a salesperson), or who has income that is hard to quantify (like an attorney whose income is based primarily on contingency fees, or a racehorse owner/trainer whose income is based on the horse's winnings)?	*There has been no specific ruling yet, but no debtor has declined to follow the trustee's recommendation, and no creditor has objected to the arrangement.*	For Schedule I, use a reasonable projection of income based on historical income and/or the debtor's best estimate of future income. In addition, the plan should provide that some percentage (about 35%) of income over the annualized Schedule I income will also be paid into the plan. This is a win-win solution for the debtor and his/her creditors – as long as the debtor understands that at the end of the year (or more frequently) s/he may need to make a lump-sum payment.
How is a debtor's tax refund relevant to a disposable income analysis?	If a debtor receives tax refunds due to overwithholding, Schedule I should be adjusted to correct the overwithholding in lieu of turning over tax refunds. Riggs, 06-20826 (02/27/07).	The trustee will not seek to recapture Earned Income Credit (EIC), and usually has no objection to adjustments that allow the debtor to retain ~$1,200 in tax refunds (the amount is negotiable). Assuming the debtor's income is close to the previous year's income and there are no significant change in circumstances, take last year's tax refund (combined state and federal), subtract $1,200, divide by 12 months, and show that amount on

		Schedule I as income from "prorated tax refund." In the alternative, the trustee has an Excel worksheet to calculate the estimated tax liability that should be deducted from gross wages to arrive at the debtor's net income.
Must (or may) the debtor turn over tax refunds annually to the trustee?	*The Court has dismissed cases where the debtor commits to paying tax refunds into the plan but then "forgets" to send the payment in – often with no opportunity to make up the missed payment.*	Unlike many chapter 13 trustees, the EDKY trustee does not require the turnover of tax refunds in every case. However, as noted above, large tax refunds attributable to overwithholding are part of the debtor's projected disposable income. It is preferable to prorate the anticipated refund and add the amount on Schedule I as income, and is generally better for the debtor as well because the trustee will not object to a formula that allows the debtor to retain some tax refund money in exchange for increasing monthly payments. If the debtor intends to pay tax refunds annually, the trustee will ask for 100% of all state and federal tax refund income. The debtors should NOT propose to pay their tax refunds into the plan in lieu of increasing monthly plan payments, then adjust their withholdings to reduce the amount of the tax refund.
Must the debtor provide tax returns to the trustee each year?	Yes, if requested by the trustee.	The trustee will ask for annual production of tax returns in cases where the debtor's income is likely to change during the life of the plan. See § 521(f). The trustee may also ask for an amended Schedule I and J to be filed after a triggering event, such as the debtor obtaining employment.

		The trustee may seek a plan modification to increase plan payments if the circumstances warrant.
Should Schedule I list every deduction that is actually being taken out of the debtor's paycheck as of the date of the petition?	**"The importance of filing accurate schedules at the outset cannot be overemphasized."** Gullette, 03-10995 (11/02/04) (old law case, but analysis is still relevant). See also Lacny, 07-50184 (10/25/07) ("Furthermore, **the Debtors should ensure that the schedules are complete and accurate so that the Trustee and Court are not forced to spend excessive resources deciphering the schedules**."); (" '**great care and complete honesty in the presentation of income and expense information are standards against which debtors and their lawyers will be measured**.' "). See also Riggs, 06-20826 (02/27/07) (Schedule J should not include installment payments on loans that are being paid through the plan; to do so "artificially lower[s] the amount available to pay creditors").	NO! Schedule I should not reflect deductions for: savings accounts, credit union loans, garnishments that will stop when the petition is filed, and other deductions that result in an erroneously understated calculation of projected disposable income. In addition, debtor and debtor's counsel must make an effort to decipher the codes used on paychecks to ensure that Schedule I shows only the appropriate deductions. Do not just list the abbreviations shown on the paycheck; explain what the deductions are actually for. If counsel is of the view that Schedule I must show all deductions coming out of the debtor's pay as of the date of the petition, then those deductions that are not allowable in calculating projected disposable income should be added back in to the debtor's Schedule I income, with an explanation for the presentation.

Can the debtor deduct on Schedule I contributions to 401K-type retirement plans?	Yes, if the debtor was making the contributions as of the date of the petition.	The trustee has no objection if Schedule I shows contributions to a 401K, 403B, or other ERISA-qualified retirement plan identified in § 541(b)(7), as long as there is some historical basis for making the contributions. The trustee will object if Schedule I shows a deduction for retirement contributions that were begun postpetition. There may be a good faith issue if contributions were started on the eve of bankruptcy – depends on the facts of the case. Contributions to an IRA cannot be deducted in calculating projected disposable income.
Can the debtor deduct from Schedule I payments made to repay 401K loans?	Yes. There is an issue on appeal relating to whether the debtor's plan may propose to resume contributions to 401K plans as their 401K loans are paid off, rather than increasing plan payments.	§ 362(b)(19) authorizes the continued collection of 401K loans postpetition. However, the trustee expects the debtor to propose a step plan with a dollar-for-dollar increase in plan payments when each loan is paid off. The trustee continues to object if the debtor proposes to increase contributions to the 401K rather than increase plan payments after the loan is paid in full. Until the issue is resolved, the trustee has a plan amendment that will be required in all such cases.
Can the debtor deduct from Schedule I or J expenses for health insurance for the debtor and dependents of the debtor?	*There has been no specific ruling yet.*	As long as the expense is reasonable and necessary, the trustee would not object. Furthermore, § 1329 authorizes a debtor to modify the plan post-confirmation to purchase health

		insurance under certain conditions.
Are the postpetition, ongoing mortgage payments paid by debtor "outside" the plan or by the trustee through the plan as a "conduit"?	If the debtor wants the trustee to make the ongoing postpetition mortgage payments, the trustee will do so.	The trustee prefers that the postpetition mortgage payments be made by the debtor, with just the prepetition arrearage being cured through the plan. The regular mortgage payment would show as an expense on Schedule J. However, if the debtor wants to make payments through the plan, trustee has a form agreed order that must be signed. The mortgage expense would be deleted from Schedule J, and the plan payment would be increased accordingly.
Can the IRS standards be used on Schedule J in lieu of listing the debtor's expenses?	No. Schedule J should reflect debtor's reasonably necessary expenses; historical figures are a starting point, but budget should reflect some effort at "belt-tightening". Lacny, 07-50184 (10/25/07).	The trustee follows the court's directive that Schedules I and J control. The IRS standards have no place on Schedules I & J.
Can the debtor claim an expense on Schedule J for charitable contributions?	Yes as long as there is evidence that debtor has historically made contributions at that level.	If the debtor's tax returns do not support the amount claimed on Schedule J for charitable contributions, the trustee will request proof. Statements such as "I would have tithed in the past if I had had the money, so now that I'm in bankruptcy I can afford to start tithing" will not justify a higher amount on Schedule J than the debtor contributed in the past.
Can the debtor claim an expense on Schedule J for private school tuition for a dependent child?	Yes, if the child historically has attended private school and if the amounts are reasonable.	Debtors who want to start their children in private school post-petition will need to show evidence of the need to put the child in private school and of the reasonableness of the expense.

Can the debtor claim an expense on Schedule J for college expenses of a child/dependent?	Yes, but only for undergraduate schooling. The debtor cannot fund the child's studies towards a master's degree or other post-graduate work.	If Schedule I shows a dependent who is 21 years or older, the trustee will request more information regarding the extent of the child's college studies and may require a step plan.
Can the debtor deduct a student loan payment from Schedule J for his/her own student loans?	*There has been no specific ruling yet.*	It is OK to continue to pay student loans "outside the plan" (and show it as an expense on Schedule J) if it is a long-term debt, but plan must specify in the Special Provisions that student loans are paid outside the plan. If the student loan is in deferment and the debtor is not actually making loan payments, the trustee will object to including the expense on Schedule J and ask for an increase in plan payments. Student loans are nondischargeable, but they are NOT priority claims (even if they are owed to a governmental entity like KHEAA). There cannot be a separate classification to pay student loans in full through the plan while other unsecured creditors receive less than payment in full.
Can the debtor deduct expenses on Schedule J for the care of an adult child who is not working?	*This is probably a fact-specific determination.*	The trustee will object to a budget where the debtor has included expenses that should be borne by the emancipated child, such as a car payment, payment of car insurance, or apartment rent. Likewise, the trustee will object to an allowance in the budget for food and other living expenses of an adult child who is living with the debtors but is not working. There could be exceptional circumstances to justify the expenses, but generally if the adult child is capable of working, the debtors should not be

		supporting the child at the expense of the creditors.
Can the debtor deduct expenses for the care of elderly parents?	*This is probably a fact-specific determination. The Court dismissed a case when the debtor was unable or unwilling to provide to the trustee evidence of the reasonableness and necessity of the expenses claimed on Schedule J for the care of elderly parents.*	The trustee will often request evidence of the necessity of the debtor incurring the expenses and of the reasonableness of the expenses. To evaluate the expense, the trustee may want to know what the parent's income is, whether there are other family members who can share the expenses, whether the amount of the expenses can be documented, how long the debtor has provided care, how consistently the debtor has provided care in the amount claimed on Schedule J, etc. The trustee will also evaluate the expense in light of the overall budget. Also, there should be no "double-dipping" by including a higher amount for food, transportation, and medical expenses for the elderly parent, in addition to a separate line item.
What about expenses on Schedule J for miscellaneous, haircuts, personal grooming, household supplies, gifts, cigarettes, pet care, child care, diapers, after-school activities, etc.?	Schedule J should reflect debtor's reasonably necessary expenses; historical figures are a starting point, but budget should reflect some effort at "belt-tightening." Lacny, 07-50184 (10/25/07). *The Court often refers to "belt-tightening" in remarks from the bench.*	The trustee will consider the reasonableness and necessity of these expenses depending on the amounts and what the overall budget looks like. The expenses should not be exaggerated or artificially inflated. Also, just because the debtor has spent money on these (and other) expenses in the past does not mean they can continue to maintain that same lifestyle. The debtor's attorney should prepare the debtor for the fact that the trustee will likely object to a budget that does not show some effort at belt-tightening.

Can the debtor make car payments "outside the plan"?	If a car loan is paid "outside" the plan, the plan must show an increase in plan payments by 2/3 of amount of monthly car payment starting in the month after the car loan is paid off. *The Court devised the 2/3 rule to allow for the additional expenses of maintaining an older car. If and when a replacement car is needed, debtor can file a motion to modify plan and/or an application to incur debt.* A reasonable car payment is in the $350-$400/month range.	Trustee will usually object to: (a) car payment of more than $400/month; (b) paying an undersecured non-910 car claim outside the plan; (c) paying a 910-car claim with high interest rate outside the plan. However, if the car loan matures after the plan is expected to be completed, the loan can be paid outside the plan, regardless of the terms. Otherwise, if a car loan is paid "outside" the plan, the plan must propose step payments, using the court's 2/3 rule. A generalized statement like "the car will be old and the debtor will have to buy a new one" will not justify omitting the step payment from the plan.
Can the debtor deduct an expense on Schedule J for a "projected" payment on a car to be bought sometime after the plan is confirmed to replace a car being surrendered in the plan?	No (unless the purchase is imminent). However, if necessary the debtor can later seek to modify the plan in order to fund the purchase of a replacement vehicle.	OK ONLY if the purchase is imminent (w/in 30 days, as evidenced by the fact that an application to incur debt has already been filed).
Can the debtor deduct a car lease payment on Schedule J?	Yes if the lease payment is reasonable.	In many cases, it is better to reject a car lease pre-confirmation and buy affordable transportation within the Court's guidelines. In some instances, the trustee has agreed to a step plan whereby the debtor can continue to make lease

		payments that are higher than $400/month, but when the lease expires the plan payment increases by the full amount of the lease payment with no allowance in the budget for replacement transportation, or perhaps a nominal $200/month allowance. The trade-off is that the debtors will have to figure out how to afford a car later if they want to keep a more expensive leased car now. Obviously the trustee would not agree to this for a long-term car lease.
Should Schedule J show expenses for debts being paid through the plan?	No. Riggs, 06-20826 (02/27/07).	The trustee will ask that the expense be deleted from Sch J and that plan payments be increased dollar-for-dollar. When a debtor converts from 7 to 13, Schedules I and J must be amended, and at a minimum the debts that are to be paid through the plan should be deleted from Schedule J. See the instructions at the top of Schedule J. Debtors' attorneys need to be aware of the conditions under which a trustee can avoid a lien or mortgage. If the plan proposes to pay a loan "outside" the plan (with the expense on Schedule J) and the lien is avoidable, the trustee will object. The treatment of an avoidable lien in the plan is beyond the scope of this paper.
Can the debtor keep and pay claims secured by unnecessary property such as an ATV, boat, motorcycle, 3rd car, timeshare, etc.?	No, unless it's a 100% plan. See Riggs, 06-20826 (02/27/07); Lacny, 07-50184 (10/25/07). The court does not like to see debtors keeping "toys". The court recently ordered a debtor to	Ordinarily, the trustee will recommend that the debtor surrender the property and increase the plan payment by the amount of the claimed expenses (if the loan was to be paid "outside" the plan). If the claim was to be paid through the plan, plan payments should not decrease, and a larger

	sell an unencumbered, exempt boat. In another case, when debtors asked to suspend plan payments, the court indicated that they would be expected to surrender a $2,500 ATV being paid through the plan. The trustee did not object to the debtors' retention of their toys in either of these cases.	dividend for the unsecured creditors will be available. However, in certain circumstances, the trustee will not object to a payment for a "toy" in lieu of a recreation budget, but only if the expense is comparable to a reasonable expense for recreation given the family size and overall budget. The debt can be paid through the plan or "outside" the plan.
Can the debtor include business expenses on Schedule J that exceed the income generated by the business as shown on Schedule I?	No. Lacny, 07-50184 (10/25/07).	This is common when the debtor has rental property that does not have a positive cash flow. Ordinarily, it is better to surrender the property, delete the income and expenses from Schedules I & J, and increase the plan payment. On occasion, when the debtor believes rental property will have a positive cash flow in the near future, the debtor can go ahead and increase the plan payment as if the property had been surrendered. That puts the risk of loss on the debtor, not the debtor's unsecured creditors. The debtor may then need to eat PB&J sandwiches in order to make the plan work, but the creditors will not have to fund a losing operation. The same solution may be available to a debtor who is involved in a business venture that is showing a negative cash flow on Schedules I & J but has a chance of becoming profitable.
Are payments on "rent-to-own" agreements deducted on Schedule J or paid through the plan?	Most "Rent-to-own" contracts are not secured claims that can be crammed down through plan; they must be paid per the contract.	As with all loans being paid "outside" the plan, the plan must provide for step payments when the RTO debt is paid off.

Can the expenses of a non-filing spouse be deducted on Schedule J if the income was included on Schedule I?	Yes. The non-filing spouse is not expected to fund the debtor's plan; however, the debtor's disposable income should not be reduced by a disproportionate share of household expenses. Walker ,04-22846 (04/29/05) (old law case, but analysis is still relevant).	The nonfiling spouse's debts, credit card payments, and personal expenses can be deducted on Schedule J. The household expenses may need to be apportioned between the debtor and the nonfiling spouse relative to their respective incomes if the nonfiling spouse's expenses appear unreasonable (for example, if the debtor is paying more for utilities, groceries, and other household expenses so that the nonfiling spouse can pay for vacations).
Can the debtor amend Schedule J to increase expenses when the trustee finds additional income and requests an increase in plan payments (due to underreported income on Schedule I, tax refunds, etc.)? After all, Rule 1009(a) says that a debtor may amend the schedules as a matter of course at any time.	The Court has dismissed cases for lack of good faith due to budget manipulation. **"The importance of filing accurate schedules at the outset cannot be overemphasized."** Gullette, 03-10995 (11/02/04) (old law case, but analysis is still relevant). See also Lacny, 07-50184 (10/25/07) (" '**great care and complete honesty in the presentation of income and expense information are standards against which debtors and their lawyers will be measured**.' ").	***Grrrrrrrrr*.** This conduct invites higher scrutiny of all expenses and triggers objections to confirmation based on lack of good faith as evidenced by budget manipulation. When expenses are increased to offset an increase in income, the trustee will ask for proof of the amounts of the increased expenses and may also ask for proof of the expenses listed on the original Schedule J. The only exception is if the debtor was on a bare-bones budget to begin with, and it is clear that the increased income is needed for basic living expenses. Avoid facing this situation by getting Schedule I and J right the first time.

What if the debtor's expenses on Schedule J exceed the debtor's income on Schedule I (creating "negative" projected disposable income?	Debtors must show on Schedules I & J how they will be able to fund a plan payment. Lacny, 07-50184 (10/25/07).	Schedules I and J must show projected disposable income AND the debtor's ability to make plan payments. See § 1325(a)(6). In addition, in order to be eligible for chapter 13, the debtor must have income "sufficiently stable and regular" to enable the debtor to make plan payments. § 109(e); § 101(30). A negative number on Line 20.c. of Schedule J indicates that the debtor will not be able to make ends meet and make the plan payment. The plan is therefore not confirmable, and the debtor's eligibility to even be in a chapter 13 case can be challenged. If the debtor is relying on family contributions to make ends meet until his/her income increases, that should be explained on Schedules I and J. On occasion, the court has ordered the debtors to provide an affidavit from the family member. If the debtor is relying on a tax refund to pay some expenses annually, such as property taxes and insurance, so that s/he has the monthly cash flow necessary to make plan payments, that should be explained in the Schedules.
Do Schedules I and J in a chapter 7 case serve the same purpose and reflect the same numbers as they do in a chapter 13 case?	No. Schedules I and J are "forward-looking" in a chapter 13 case.	Schedules I and J must be amended when a case converts from 7 to 13. Also, a Form B22C (which is somewhat different from the Form B22A filed in the chapter 7 case) must be filed upon conversion.