

CHAPTER 13 BANKRUPTCY  
IN THE  
EASTERN DISTRICT OF KENTUCKY

[PHOTO]

THE DEBTOR'S CHAPTER 13  
HANDBOOK

A Publication of the  
Chapter 13 Trustee  
for the Eastern District of Kentucky

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Beverly M. Burden, Trustee

# THE DEBTOR'S CHAPTER 13 HANDBOOK

## IMPORTANT INFORMATION ABOUT YOUR CHAPTER 13 BANKRUPTCY CASE

**For Cases Filed In The Eastern District of Kentucky On or After October 17, 2005**

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**This Handbook Is Available In Large Print Upon Request.**

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**WRITE YOUR ATTORNEY'S NAME AND PHONE NUMBER HERE FOR  
QUICK REFERENCE:**

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**WRITE YOUR CASE NUMBER HERE:** \_\_\_\_\_

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## Introduction

This Handbook may help answer some of the most common questions or problems related to a Chapter 13 bankruptcy case in the Eastern District of Kentucky. It is not a substitute for legal advice.

**Your attorney should be the first person you call if you have questions or problems at any time while you are in bankruptcy.**

## Your Rights and Duties

Filing a chapter 13 bankruptcy case can protect you from collection efforts by your creditors for a period of time and can help you keep your house and other property. In order to receive the benefit of chapter 13, you have some duties. For example, you must:

- List all of your property and all of your debts in your bankruptcy paperwork.
- Be honest with your attorney, the Trustee, your creditors, and the Court.
- Comply with all Bankruptcy Court orders.
- Provide all documents requested by your attorney, the Trustee, and the Court.
- Make the payments your plan requires you to make, and make them on time.
- Attend all hearings (unless your attorney tells you otherwise).
- File all required tax returns, and pay all taxes that come due after bankruptcy, on time.

- Contact your attorney if your circumstances change while you are in bankruptcy.

Make sure you understand what you are supposed to do and when you are supposed to do it. Ask your attorney for guidance.

If you change your name or address while you are in chapter 13, make sure you give the new information to your attorney, the Trustee, and the Bankruptcy Court.

For security reasons, please notify the Trustee's office in writing when you change your name or address.

## Bankruptcy Fraud

The great majority of people who file bankruptcy are honest people who have experienced a financial setback and are trying to get back on their feet.

Very few people want to defraud their creditors. However, sometimes a person may try to protect property that has sentimental value or property they think is not worth much, and they decide not to include it in their bankruptcy papers, or they give it away to a family member or close friend before they file bankruptcy. This type of conduct could be considered bankruptcy fraud, which is a federal crime.

You must provide accurate, truthful, and complete information to your attorney, the Trustee, your creditors, and the Bankruptcy Court.

When you sign your bankruptcy papers, your signature is your declaration under

penalty of perjury that all of the information contained in your Petition, Schedules, and Statement of Financial Affairs is true and correct.

When you attend your Meeting of Creditors (the 341 hearing), the representative from the Trustee's office will record your testimony, again under penalty of perjury.

**If you believe there is an error in your paperwork, or if you forgot to include property that you own, or if you overlooked a creditor you owe, inform your attorney immediately so that amended papers can be filed.**

## **Your Attorney**

Your attorney is the person who represents you for as long as you are in your chapter 13 case.

Most attorneys will agree to have some or all of their fees paid through the chapter 13 plan, including fees for services they provide after the Bankruptcy Court has approved or "confirmed" your plan.

Other attorneys require their clients to pay their fees in full before they take any action, so they may charge you an additional fee for services you need after confirmation.

The arrangement for fees should be in writing between you and your attorney.

Your attorney must be licensed to practice in the Federal Court in the Eastern District of Kentucky.

In the Trustee's opinion, your attorney should:

- Be knowledgeable about bankruptcy, especially about chapter 13.
- Represent you competently and attend all hearings on your behalf.
- Spend a reasonable amount of time with you to discuss your case.
- Be reasonably available to handle relevant issues that arise the entire time you are in bankruptcy.
- Advise you of your options and assist you in making decisions about your case.

Make sure you keep your lawyer informed of any changes or new information that might affect your case. And remember that your attorney may have dozens of clients like you, all of whom have important issues that the attorney must address. Many attorneys have qualified paralegals or assistants who can answer your questions (although only the attorney can give you legal advice).

Sometimes the personalities of the attorney and the client are so different that it is hard for the parties to communicate well with each other. Don't be shy about asking your attorney to explain something again, or to speak more slowly, or to rephrase something.

If a misunderstanding or disagreement develops between you and your attorney, or if you are ever dissatisfied with your attorney, try to discuss it with your attorney first.

If that does not resolve the matter, you have the right to find another lawyer. You can shop around, but be sure and tell your potential new attorney that you are looking to replace your existing attorney.

Another option is to contact the Kentucky Bar Association, which regulates the conduct of attorneys. You can call the Client Assistance Program at 502-564-3795. Sometimes they can help clear up a misunderstanding between you and your attorney (for example, if you feel that your attorney is not returning your phone calls). Contacting the Client Assistance Program will not get the attorney in trouble, but if you want to file a formal complaint against the attorney, they will tell you what you need to do.

### **Filing Bankruptcy Without An Attorney**

You are not required to have an attorney, but the Trustee strongly encourages you to get an attorney to represent and advise you.

If you use the services of someone who is not an attorney, be aware that they may not be able to do more than type a document for you.

A person who is not an attorney can prepare a document for you, but cannot represent you or give you legal advice. This “Bankruptcy Petition Preparer” cannot advise you: whether to file a petition, which chapter to file under, whether you can keep your property, whether you will receive a discharge, what your rights are, what the

bankruptcy procedures are, or give you other legal advice.

\*\*\*\*\*

**If you choose to file a bankruptcy case without the assistance of an attorney, you will be expected to:**

- **comply with all federal and local rules and Court orders;**
- **provide information and documents requested by the Trustee or any creditor;**
- **meet all deadlines;**
- **file the correct forms;**
- **attend all hearings;**
- **make all required payments in a timely manner.**

**In short, you will have to do all the things that an attorney would do for you.**

\*\*\*\*\*

***The Chapter 13 Trustee’s office cannot give you legal advice.***

Please do not call the Trustee’s office to request bankruptcy forms or to ask how to file something.

## Chapter 13 Plan

Chapter 13 involves repayment of debt to your creditors and generally allows your property to be protected from creditors. Your proposal for repaying your creditors is called a “Plan.” The payments you make to the Trustee’s office are your “Plan Payments.”

The plan must meet certain legal requirements in order to be approved or “confirmed” by the Bankruptcy Court. One of the duties of the Trustee’s office is to make sure your plan is confirmable. Creditors also have a right to object to your plan.

Your plan will require you to make payments to the Chapter 13 Trustee, who will distribute the funds according to the plan. You may also have to make payments directly to some of your creditors. See the section in this Handbook on “Outside or Direct Payments.”

Once you file a chapter 13 bankruptcy case, your payments are governed by law. You cannot pick and choose which particular creditor you would like to pay ahead of others or which creditor you might like to keep out of your bankruptcy. You must pay your creditors according to your plan and according to federal law.

### Length of Plan

A plan usually lasts 3-5 years but cannot last longer than 5 years. The length of time you are in chapter 13 depends on several factors, such as: how long it takes to pay secured claims (like a car loan); how much of your “disposable

income” must be paid to your unsecured creditors; how much you owe on mortgage arrearages or priority tax claims; how much equity you have in your home; and other factors. Generally, the more you can afford to pay as your plan payment, the sooner you can complete your plan.

### Due Date for Plan Payments

**Your first payment to the Trustee is due 30 days after you file your bankruptcy case.**

If your bankruptcy case was filed without a plan (which can be filed up to 15 days later), your first payment is still due 30 days after your bankruptcy case is filed.

Within a few days after your chapter 13 case is filed, the Trustee sends you a Payment Information sheet to tell you the date the first payment is due. If your plan was filed with your petition, the amount of your plan payment will also be on the Payment Information sheet. If it isn’t, contact your attorney immediately to find out how much your plan payment will be.

The Trustee’s office can change your due date at your request (subject to certain restrictions). However, we cannot change it so that you skip a month’s payment. For example, if your first payment is due on November 25th and you want to change your due date to the 10th, you must still make a payment in November, and your December payment will be due by the 10th of December. We cannot change your due date frequently. The Trustee’s office

will advise you whether your due date will be changed.

### **Extra Payments; Early Payoff**

You are permitted to make extra plan payments to pay off your chapter 13 case early if you wish. However, **certain lump sum payments must be paid to the Trustee in addition to regular plan payments and cannot be used for an early payoff.**

Contact your attorney if you receive money from a lawsuit (or settlement before a lawsuit is filed), sale of property, inheritance, or lottery winnings.

If you pay off your case early with a lump sum from any source, please include a letter with your payment to explain where the money came from.

### **Method of Payment**

You may make your regular plan payments (and extra payments) by personal check, cashier's check, or money order. You may also be able to make your regular plan payments (but not extra payments) by payroll deduction or by bank draft.

The Trustee's office and our bank cannot accept: cash; credit cards; check-by-phone; or online payments.

**Checks and Money Orders:** If you pay by personal check, money order, or cashier's check, there are steps you can take to help the Trustee's office post your payment to your account accurately and quickly.

At your meeting of creditors, you will be given labels with your last name and case number printed on them. Please put a label on each and every plan payment you make. Place the label in the "For" or "Memo" section of your check or money order. **Do not let the label touch the numbers at the bottom of your check (the bank routing number and your account number).**

Make your check or money order payable to:

**CHAPTER 13 TRUSTEE, EDKY**

Make sure the amount of your check is correct and that the number amount (for example, \$100.<sup>00</sup>) matches the written amount (One Hundred and 00/100 Dollars).

And don't forget to sign the check.

*If you pay by money order, make sure you keep your money order receipt so it can be traced if the payment is lost.*

If you lose your labels or need more, call the Trustee's office.

If you pay by check:

<i>YOUR NAME</i>	<b>EXAMPLE</b>	<i>CHECK NO.</i>
<i>YOUR ADDRESS</i>	<b>NOT NEGOTIABLE</b>	<i>DATE</i> _____
<i>PAY TO THE ORDER OF</i> <u>CHAPTER 13 TRUSTEE EDKY</u>		\$ _____
		_____ <i>DOLLARS</i>
<i>FOR</i>	<div style="border: 1px solid black; padding: 2px; display: inline-block;">LASTNAME 05-5555 Chapter 13 Trustee, EDKY</div>	<b><u>YOUR SIGNATURE HERE</u></b>
999999999	121212121212	
Bank Routing Number	Your Account Number	(DO NOT COVER THESE NUMBERS UP WITH YOUR LABEL)

**Put your case number label here (but don't let the label touch the bank routing or account numbers)**

PLEASE:

- SIGN YOUR CHECK
- MAKE SURE THE NUMBER DOLLAR AMOUNT MATCHES THE WRITTEN AMOUNT
- USE YOUR CASE NUMBER LABELS
- MAKE SURE THE LABEL DOES NOT COVER UP THE NUMBERS PRINTED AT THE BOTTOM OF YOUR CHECK
- USE THE MAILING LABELS, OR MAIL YOUR CHECK (**AT LEAST 5 DAYS BEFORE THE DUE DATE**) TO:

**CHAPTER 13 TRUSTEE EDKY  
PO BOX 1766  
MEMPHIS TN 38101-1766**

You will also be given mailing labels to put on your envelope.

**All payments must be sent to our bank's lockbox at the following address (which is printed on the mailing labels):**

**CHAPTER 13 TRUSTEE EDKY  
PO BOX 1766  
MEMPHIS TN 38101-1766**

**Do not try to send payments to a street address in Memphis.** The Memphis address is a post office address for our bank. The Chapter 13 Trustee that is located in Memphis is NOT the same as the Chapter 13 Trustee for the Eastern District of Kentucky. Do not send payments by FedEx or overnight mail to the street address of the Memphis Chapter 13 Trustee. It will only delay your payment.

**Do not send payments to the Trustee's Lexington PO Box or street address.** We forward the payment to our bank in Memphis, so it takes longer to post your payment if you send it to Lexington.

**Do not send post-dated checks.** These will not be deposited and will be sent back to you. Sending a post-dated check is the same as not making a payment at all.

The Trustee's office cannot accept payments at our office or at any hearing.

**Allow at least five (5) business days for your check to be posted to your account.**

**ACH/Bank Draft:** You may request that your regular monthly plan payment

be made by automatic bank draft. The form for requesting payment by bank draft is in this Handbook.

You may choose to have the payment withdrawn from your account on either the 10th or the 25th of each month. The full monthly payment will be deducted from your account at one time. We cannot deduct a half payment on the 10th and the other half on the 25th.

If the 10th or the 25th falls on a weekend day or holiday, the withdrawal will be made on the next business day.

Making payments by bank draft shows you are committed to your plan because no matter what happens your plan payment will automatically be made. However, you may have to change how you manage your money and pay your bills to **make sure enough money is in your account to cover the payment every month on the withdrawal date.**

**The Trustee's office cannot:**

- × **stop or change any bank draft for any reason at any time based on a phone call;**
- × **stop or change a withdrawal within 7 business days of the scheduled withdrawal;**
- × **stop a withdrawal "this time" because it will cause your account to be overdrawn;**
- × **reverse a withdrawal (to put the funds back in your account).**

If any two (2) drafts are returned by your bank as unpaid for any reason (NSF, closed account, etc.), the Trustee's office will discontinue the bank drafts, and you will be required to make plan payments

thereafter by cashier's check or money order.

If your plan payment changes, the Trustee will automatically change the amount deducted from your checking account. However, if your plan or other court order obligates you to make a lump sum payment by a certain date, for example, your tax refund or proceeds from a lawsuit, or if you have to catch up missed payments, you will need to make that payment by check or money order.

If you change banks, it is your responsibility to notify the Trustee's office and to fill out another authorization form if you want your payments deducted from your checking account at your new bank.

The Trustee will stop automatic bank drafts: when you complete all payments under your plan; if your case is dismissed; or if your case is converted to another chapter. Funds withdrawn after the date of completion, dismissal, or conversion will be refunded by check issued within 45 days.

You may stop the bank drafts permanently by sending written notice to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204. The Trustee's office must RECEIVE the notice seven (7) business days before the next withdrawal date, so make sure you mail your notice at least ten (10) days ahead.

**Bank drafts cannot be changed or stopped by phone call, even if you do not have the funds in your account on the scheduled withdrawal date.**

To start bank drafts, simply fill out and sign the enclosed form, attach a voided check, and return it to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204. *The Trustee reserves the right to reject your request for automatic bank draft if the Trustee has received an NSF check from you.*

**Payroll Deductions:** You may ask that your regular plan payments come directly out of your paycheck. If you have a steady job with regular income, your chance of successfully completing a chapter 13 case is greater if you make your plan payments by payroll deduction.

You can request a payroll deduction in the plan or at any time by calling the Trustee's office or submitting a Payroll Deduction Request form, which is included in this Handbook. You must give the Trustee's office your employer's exact name and address (where your payroll comes from).

**It usually takes 2-4 weeks to get the deduction started from your paycheck.**

A Payroll Deduction Order is entered by the Bankruptcy Court. The Trustee sends the Court order to your employer, who deducts the payment from your paycheck and sends the payment to the Trustee at least once per month.

Please remind your employer to put your case number on the check they send to the Trustee's office.

If you are paid every week, every two weeks, or twice a month, your payment to the Trustee will be divided up and

taken out of each paycheck. Turn the page to see an example of how monthly payments are divided into weekly, bi-weekly, and semi-monthly payments. Because the payroll deduction is started by Court order, it can only be stopped by Court order. Contact your attorney if you need to stop your payroll deduction.

If you change jobs often, experience layoffs or regular plant shut-downs, or if you are working through a temp agency until you gain full-time employment, a payroll deduction may not be an option for you.

**If you make plan payments by Bank Draft, or by Payroll Deduction, you must make plan payments directly to the Trustee's payment address until you see that the payment has been taken out of your checking account (for bank drafts) or your paycheck (for payroll deductions).**

**Mail payments to:  
CHAPTER 13 TRUSTEE EDKY  
PO BOX 1766  
MEMPHIS TN 38101-1766**

**Do not get behind in your plan payments while you wait for the bank draft or payroll deduction to begin. (See the section of this Handbook on "Motion to Dismiss").**

If you have a payroll deduction order and you wish to change to another method of payment (like bank drafts), contact your attorney.

## **NSF and Other Returned Payments**

If any 2 personal checks or bank drafts are returned as unpaid by your bank for any reason (non-sufficient funds; closed account; etc.), you will be ordered to make payments only by money order or cashier's check.

An NSF or returned payment may cause your case to be dismissed if you are on "probation." See the sections of this Handbook on "Dismissals" and on "Probation."

## Converting Monthly Payment Amounts to Weekly, Bi-Weekly, and Semi-Monthly Amounts

### EXAMPLE

IF YOUR MONTHLY PAYMENTS ARE \$500.00 PER MONTH:

If you are paid weekly, the WEEKLY amount of your plan payment would be:

$$\begin{array}{r r r} \text{Multiply} & \$500 & \text{(monthly payment)} \\ \times & 12 & \text{(months per year)} \\ \text{Divide by} & \underline{52} & \text{(weeks per year)} \\ = & \$115.38 & \text{Weekly} \end{array}$$

If you are paid every 2 weeks, the BI-WEEKLY amount of your plan payment would be:

$$\begin{array}{r r r} \text{Multiply} & \$500 & \text{(monthly payment)} \\ \times & 12 & \text{(months per year)} \\ \text{Divide by} & \underline{26} & \text{(pay periods per year)} \\ = & \$230.77 & \text{Bi-weekly} \end{array}$$

If you are paid twice a month every month, the SEMI-MONTHLY amount of your plan payment would be:

$$\begin{array}{r r r} & \$500 & \text{(monthly payment)} \\ \text{Divide by} & \underline{2} & \text{(pay periods per month)} \\ = & \$250 & \text{Semi-monthly} \end{array}$$

## Comparison of Bank Draft With Payroll Deduction Payments

	ACH/BANK DRAFT	PDO (PAYROLL DEDUCTION ORDER)
Request to start:	must be in writing on the form provided by the Trustee's office (with an attached voided check)	may be in the plan, by letter, or by phone call; then Court order is entered.
Frequency of payment:	once per month; you choose either the 10th or the 25th	monthly payment is divided and taken out of each paycheck
Request to stop:	must be sent to the Trustee in writing at least 10 days before scheduled withdrawal date	must be requested by debtor through attorney; Court order is required to stop or suspend payroll deduction
Pro's:	convenience	debtors with PDO's have a higher success rate in completing chapter 13
Con's:	NSF policy	not feasible if debtor changes jobs often, experiences layoffs, or works through a temp agency until full-time work is obtained

## Your Creditors

Generally, creditors have 3 types of debts or claims:

**Secured Claims:** These are claims against property that you have pledged as collateral, such as your house, a car, furniture, etc. You may have pledged collateral for a “purchase money” loan, for example, a loan to enable you to buy your car. Or you may have pledged household goods or a car you already own as collateral for a new loan. Secured claims may also be secured by a lien on your property arising from a court proceeding (such as a judgment lien) or by law (such as a tax lien).

**Priority Claims:** The Bankruptcy Code gives certain creditors “priority” status. Although they are not secured by collateral, these claims must be paid in full in your chapter 13 case. Priority claims include certain taxes, child support or “domestic support obligations,” and administrative expenses such as your attorney’s fee and the Trustee’s fee.

**General Unsecured Claims:** These are claims that are not secured by collateral and include most credit cards, medical expenses, signature loans, etc.

### Claims Filed by Creditors

To be paid, creditors must file a “proof of claim.” Creditors generally have 90 days from the first date set for your Meeting of Creditors (also called the 341 hearing) to file a claim with the Bankruptcy Court. Governmental units (like the IRS) have 180 days after you

filed bankruptcy to file a claim. Claims that are not filed by the deadline or “bar date” are usually “disallowed.”

If you listed a creditor in your bankruptcy papers so that the creditor would have received notice of your bankruptcy, and the creditor did not file a proof of claim in time, the debt is usually “discharged” or cancelled. (See the sections in this Handbook on “Discharge” and “Particular Debts Not Discharged.”)

The Trustee’s office cannot pay a creditor who did not file a claim with the Court. Sometimes you need to make sure a creditor files a claim so the creditor can get paid (for example, for back child support). You may be able to file a claim for that creditor, but there are deadlines for doing that. Contact your attorney to file a claim on behalf of a creditor.

### Payments to Creditors

Your chapter 13 plan tells the Trustee and your creditors how the creditors are to be paid.

Payments you make to the Trustee’s office go toward the Trustee’s fees, your attorney’s fees (if any), and creditors who have filed claims in your case. The Trustee makes payments to creditors once a month.

**Your plan may require you to pay some of your creditors directly.**

## Outside or Direct Payments

Your plan might provide for you to make some payments directly to your creditors. This is sometimes referred to as paying creditors “outside” the plan.

It is common in the Eastern District of Kentucky for debtors to make their mortgage payments directly to the creditor. If you were behind on your mortgage payment when you filed your chapter 13 case, the past due amount (the “prepetition arrearage”) will usually be paid through the Trustee while you make all payments that come due after bankruptcy (“postpetition”) directly to the mortgage company.

**It is important that you know which creditors you must pay directly and which will be paid through the Trustee’s office. Contact your attorney if you have questions.**

If you pay any creditor by money order, keep the receipts so the money order can be traced in the event the creditor did not receive it or post it to your account.

If you fall behind on the payments you make directly to the creditor (such as your postpetition mortgage payments), the creditor may ask the Bankruptcy Court for “relief from stay.”

## Automatic Stay and “Relief From Stay”

In most cases, filing a bankruptcy petition stops creditors from attempting to collect the debts you owe them. This is known as the “automatic stay.”

However, there are numerous exceptions to the automatic stay. Also, under certain circumstances, the stay may automatically terminate after 30 days, or it may not protect you at all.

**If you file a bankruptcy case within a year after a dismissal of another bankruptcy case, you get only 30 days of protection (the “automatic stay”) before your creditors can begin collection activity again. If you have had 2 prior dismissals within the last year, filing bankruptcy will not automatically stop a foreclosure, repossession, or other collection efforts.**

You (through your attorney) may be able to file a motion to ask the Bankruptcy Court to extend your protection, but there are strict deadlines and requirements that must be met.

Even if the automatic stay protects you, a creditor can get “relief from stay” to continue collection actions against you. Failures to make payments, or to maintain insurance on collateral, are just 2 reasons a creditor can ask for relief from stay.

If the Court grants relief, the creditor can proceed with a foreclosure sale of your house or repossess its collateral (like your car).

If you receive a motion for relief from stay at any time while you are in your chapter 13 case, contact your attorney.

## **Co-Debtor Stay and Co-Signed Debts**

If someone co-signed or guaranteed a loan for you, you may not want the creditor to go after your co-signer (“co-debtor”) to collect the debt. Chapter 13 usually protects a co-debtor from collection activity by a creditor, but this “co-debtor stay” may not apply to all debts.

Generally, unless a creditor gets “relief from the co-debtor stay” from the Bankruptcy Court, creditors should not try to collect from your co-signers. Contact your attorney if this happens.

You may also be able to protect a co-signer by paying the co-signed debt in full through your chapter 13 case, even if your other unsecured creditors are not paid in full. This protection is not absolute. For example, you will probably not be able to pay the interest on the debt that accrues while you are in your bankruptcy case. Your co-signer may still owe the unpaid portion of the debt after you receive your discharge.

## **Child Support and Other Domestic Support Obligations**

If you are presently paying child support, alimony, maintenance, or other domestic support, it is important that you let your attorney know, even if you are current in your payments and the payments are being made by wage deduction. The Trustee’s office is required by law to give special notices to any person to whom you owe a domestic support obligation, and to the child support enforcement agency of the state

in which the person you are paying resides.

If you did not owe child support or any other domestic support obligation at the time you filed your bankruptcy case but you have since been required to pay support, contact your attorney. Your bankruptcy schedules will need to be amended, and when you complete your plan, you must file a certification that you are current on your post-petition support payments so that you can get your discharge. See the sections of this Handbook on “Discharge” and “Completion Without Discharge.”

## **Taxes**

**Prepetition Taxes:** If you have not filed tax returns with the Government for any of the 4 years before you filed bankruptcy, you have very strict deadlines under bankruptcy law on when to file those tax returns. If you do not file your tax returns within the time limits set by the Bankruptcy Code, your bankruptcy case will be dismissed.

Make sure your attorney knows if you are behind on your taxes or if you have not filed tax returns.

Some of your tax debts will have to be paid in full in your chapter 13 case; some tax debts may be discharged. Your attorney can advise you.

**Postpetition Taxes:** You are required to file your tax returns with the Government and pay all taxes that come due after you file your chapter 13 case.

Generally, in the Eastern District of Kentucky you will continue to receive

your tax refund. However, your tax refund could be kept by the Government to apply to any past due tax debts.

Under the new bankruptcy law, you may be required to send a copy of your tax return every year to the Bankruptcy Court, the Trustee, and certain creditors. Your attorney will advise you.

### **Insurance on Your Property**

You are responsible for keeping insurance on your property while you are in your chapter 13 case. If your car or other personal property stands as collateral for a debt, you are required to keep full-coverage (including collision or other casualty) insurance on the property, and to give proof of the insurance to the secured creditor.

If your insured car is damaged or destroyed while you are in chapter 13, contact your attorney. Your attorney, the Trustee's office, and the creditor will need to determine who is to receive the insurance proceeds. If you need a car so you can get to work, you may be able to get the creditor's and the Trustee's agreement to allow you to use the insurance proceeds to buy a replacement car. If this cannot be worked out, your attorney may be able to file a motion and ask the Bankruptcy Court to allow a "substitution of collateral."

If your house or your belongings are damaged or destroyed, again you need to contact your attorney so that the proper procedure is followed.

**Do not accept or spend insurance proceeds until you have first consulted with your attorney.**

### **Selling Your Property**

If you wish to sell your house or other property while you are in chapter 13, you must first get the Court's permission. This requires filing a motion and getting a Court order.

**Contact your attorney before you make any arrangements to sell your property.**

### **Permission to Borrow or "Incur Debt"**

If you need to borrow money or finance an unexpected expense, for example, to repair a furnace, replace a broken-down car, or if you need to go into debt for any reason while you are in your chapter 13 case, you must first get an order from the Bankruptcy Court approving the debt.

You and your lender must fill out an "Application to Incur Debt." You or your attorney may obtain the forms by going to [www.ch13edky.com](http://www.ch13edky.com). Your attorney must also sign the forms before they are sent to the Trustee's office and the Court.

### **Early Payoff From Refinancing A Mortgage**

If you own your home, mortgage companies might offer to refinance your mortgage, pay off your chapter 13 case, and lower your monthly payment. Beware – refinancing is not always the best way to get back on your feet financially.

Before you decide to refinance your home mortgage, make sure you understand the terms of the mortgage. Find out how much you will pay to a mortgage broker. These fees are often included in the amount you refinance, which means you will pay interest on the fees for the term of the loan.

Make sure you understand whether the interest rate is a “variable” rate (also called an “adjustable” rate) and if it is, how often and how much can it increase.

Find out if there is a “balloon” payment at the end of the term of the mortgage. Sometimes monthly payments are low because very little is being applied to the principal amount of the mortgage, and at the end of the term (15 years to 30 years) you still owe most of what you originally borrowed.

Before you consider refinancing, contact your attorney for assistance. Make sure you understand all of the costs involved, not just the monthly payment. You can also find helpful information from the Federal Trade Commission’s website at [www.ftc.gov/consumer.htm](http://www.ftc.gov/consumer.htm), and from the U.S. Department of Housing and Urban Development at [www.hud.gov](http://www.hud.gov).

## **Requesting a “Payoff” Estimate**

You or your attorney may call the Trustee’s office to request a “payoff.” We will send you a payoff estimate in writing. However, the amount will be an ESTIMATE only, subject to a final audit of your case. Also, the Trustee will not give you a payoff estimate more often than one time in 60 days.

If you are refinancing your mortgage or borrowing money to pay off your chapter 13 case, either you or your attorney must request the payoff estimate. To protect your privacy, we do not give out case information to third parties, and we do not give payoff estimates over the phone. It does not matter if you have applied for a loan with that party or if you have given that party permission to request the payoff from our office. We will only give the payoff estimate to you or your attorney.

If you are required to turn over any tax refunds, bonus income, and/or lump sum payments, please note these payments are in addition to your normal monthly plan payment. An estimated payoff will not be provided until all information and funds are received by the Trustee and an audit has been completed on your case.

## Monitoring Your Case

**Notice of Allowance of Claims:** Within a few months after your chapter 13 plan is confirmed, the Trustee will file with the Bankruptcy Court a Notice of Allowance of Claims. This shows all creditors that the Trustee's office is paying. It also shows claims that were "disallowed" by the Court and will not be paid, claims that will be paid "outside" the plan by the debtor, and claims that will not be paid because the creditor has gotten "relief" from the automatic stay and will collect its debt by repossession or foreclosure of its collateral.

The information in the Notice of Allowance of Claims is based on the Trustee's interpretation of the plan and all Court orders. If there is an error, contact your attorney immediately.

If you dispute a creditor's claim that was filed in your case because, for example, the amount is wrong or you do not owe that creditor at all, you need to call your attorney so that s/he can file an "objection to claim" with the Court.

**Case Summaries:** The Trustee's office will mail a printout of your case to you every year in January. The printout shows creditors who are being paid by the Trustee's office.

The printout will also show payments you have made to the Trustee's office during the previous year. If you made a payment that is not on the printout, call the Trustee's office and ask to speak to the Controller. Please have the check number or money order number of the missing payment when you call.

## **Accessing Your Case via the Internet:**

If you want to access your account via the internet, you can do so through the National Data Center (NDC) at [www.13datacenter.com](http://www.13datacenter.com). By reviewing your case information on the NDC's website, you can:

- see if the Trustee has received and posted your payments
- review how your creditors are being paid
- estimate your payoff amount

Go to [www.13datacenter.com](http://www.13datacenter.com) and click on "Get Started Now." Follow the instructions to obtain a user ID and password. To get started, you will need:

- your first and last name as they appear on your bankruptcy petition
- your social security number (or the social security number of the person listed first on your petition in a joint case)
- your email address
- your case number

*This website is not hosted by your Trustee's office. If you have problems with accessing your information, contact the National Data Center.*

*Please be aware that there may be a two- to three-day delay between when your Trustee receives a payment and when the payment shows up on the website.*

*If you believe the account information is incorrect or if you have questions concerning your bankruptcy case, contact your attorney.*

The NDC was developed by the National Association of Chapter Thirteen Trustees to furnish national chapter 13 case information to creditors while protecting the legitimate privacy interest of debtors.

Additional information is included near the back of this Handbook.

## Completion of Your Plan

Near the end of your case, the Trustee's office will do a final audit to make sure everything was set up and paid correctly. When you have made all of your plan payments, the Trustee's office will send you a letter to tell you of your successful completion of the plan, and will file a Plan Completion Report with the Bankruptcy Court.

If your payments are made by payroll deduction, the Trustee will send an order stopping the payroll deduction to your employer. The Trustee will also stop bank drafts for plan payments.

If you have overpaid, the Trustee's office will send you a refund, usually within 45 days.

## Discharge

Your goal in chapter 13 is to complete your plan and receive a discharge of your debts.

If you filed your chapter 13 case on or after October 17, 2005, it takes more than completion of the plan to get a chapter 13 discharge.

**If you received a discharge in a prior bankruptcy case filed within 4 years of this chapter 13 case, you may not be entitled to receive a discharge in this case, even if you complete your plan.**

**Ask your attorney if you will be entitled to receive a discharge.**

Also, to receive a discharge, you must complete a course in personal financial management from an agency approved by the Executive Office of the United States Trustee. This is different from the credit counseling you received before you filed bankruptcy. **You must take the financial management course before you make your last plan payment.** And you must file the required form with the Bankruptcy Court to certify that you completed the course.

If you owe child support or a "domestic support obligation," you must be current on those support payments, and file a certification with the Bankruptcy Court, before you can get a discharge.

There may be other paperwork needed so you can get your discharge. Your attorney should advise and assist you.

## Completion Without Discharge

**Make sure you understand what can happen if you do not receive a discharge.** You will continue to owe all unpaid debts. You will owe interest that accrued at the contract rate on your secured and unsecured debts while you were in your chapter 13 case, as well as late fees and possibly other charges. Creditors can resume all collection efforts.

There may be valid reasons to file a chapter 13 case even if you are not entitled to receive a discharge. For example, if you have discharged all of your unsecured debt in a chapter 7 case but are still behind on your mortgage, you may be able to “cure the arrearage” (catch up your mortgage) in a chapter 13 case while you resume making your regular mortgage payments. A discharge may not be important in such a case. These are issues to discuss with your attorney.

### **Particular Debts Not Discharged**

Even if you receive a discharge, there are some debts that are not discharged in your chapter 13 case. These are referred to as “nondischargeable debts.” The most common ones are student loans and child support, but under the new law effective as to cases filed on or after October 17, 2005, there are many debts that are not discharged in a chapter 13 case.

Sometimes a debtor doesn’t want to file bankruptcy on a particular creditor, such as a credit union or a friendly bank. If you do not schedule a creditor in your bankruptcy papers, the debt you owe to that creditor will not be discharged. Even if you amend your schedules to add the creditor, if the amendment is after the “bar date”, it will be too late to discharge that debt.

**You can always voluntarily repay a debt that has been discharged, but you cannot go back to try and discharge a debt you did not list. Make sure you list all of your creditors in your bankruptcy so you can get full advantage of your discharge.**

Make sure you understand what debts you will owe after you receive a discharge, and what it means for those debts to be nondischargeable. Talk with your attorney.

### **Lien Releases**

After you receive your discharge, some liens may be “avoided” by law, but other liens have to be cleared from the title by filing a Release. For example, there may be liens listed on the Certificate of Title for your car that need to be released. Certain liens or mortgages on your house or other real property may also be satisfied by entry of the discharge and should be released.

Ask your attorney which liens should be released when you receive your discharge. Then you can contact each creditor and ask that a release be filed with the appropriate agency (usually the County Clerk or the Kentucky Secretary of State). You may need to send the creditor a copy of your bankruptcy schedules and a copy of the Discharge Order.

If the creditor refuses or fails to file the release on your request, contact your attorney for assistance. The Trustee’s office cannot request or require a creditor to release its lien.

## Dismissal

A dismissal is very different from discharge. If your case is dismissed, it is almost as if you never filed bankruptcy, but it will still be on your credit report, and it will still count as one of your bankruptcy cases. After a case is dismissed, creditors can start collection efforts, garnish your wages, repossess your property, or foreclose on your house.

Your case can be dismissed for a variety of reasons, including: falling behind on plan payments, not following Court orders or federal and local bankruptcy rules, not providing complete and truthful information, among others.

Before the law changed in 2005, a person whose case was dismissed could usually file another bankruptcy case (as long as the person wasn't abusing the bankruptcy laws by filing case after case after case).

Under the new law, your protection from creditors may be limited if you file a new case after dismissal of another case. See the section in this Handbook on "Automatic Stay and Relief from Stay."

Since chapter 13 is voluntary, you may choose to have your case dismissed (unless you started this case as a chapter 7). Consult with your attorney, and make sure you understand the consequences of a dismissal.

If you want the benefits of a chapter 13, make sure this chapter 13 case is not dismissed (unless you choose to have it dismissed). Stay current on all of your plan payments. Abide by every order of the Bankruptcy Court. Produce all

documents that your attorney, the Trustee, or the Court asks for. Stay in touch with your attorney.

## Motion to Dismiss

*It is crucial that you stay current with your plan payments at all times.*

Falling behind on plan payments is a major reason most cases are dismissed.

**The Trustee's office cannot give you permission to be late with a payment or to miss a payment, no matter how valid the reason is.**

If you fall behind in payments, the Trustee's office will file a motion to dismiss your case. The motion is filed if the Trustee's computer system shows a total past due amount of more than 2 times your monthly payment.

You do not need to miss 2 payments in a row for a motion to dismiss to be filed. For example, you could miss your first plan payment, go 3 years without missing a payment, then miss one more payment, and the Trustee's office will need to file a motion to dismiss because the past due amount is 2 times your monthly payment amount.

The motion to dismiss will be set for a hearing before the Bankruptcy Judge. When you receive a motion to dismiss, contact your attorney immediately so that s/he can appear at the hearing for you (and advise you of your options if you cannot catch up the payments). You may also be required to attend the hearing.

If you believe you are current in all of your payments, you may get a printout of all of the payments the Trustee has posted. Get a printout by calling the Trustee's office, your attorney, or by going to your account online.

Compare the check numbers or money order numbers of the payments the trustee has posted with your copies of cancelled checks or money order receipts. If you find a payment that the Trustee's office did not post, please call the Trustee's office and ask for the Controller.

Once the motion to dismiss is filed, the Trustee is not permitted to withdraw the motion unless you become completely current on your payments before the hearing. The Trustee's office must receive and post your payments to withdraw the motion to dismiss. Then the Trustee can file a written Withdrawal of the motion, and there will not be a hearing.

**Please do not call the Trustee's office to ask that we withdraw a motion to dismiss.**

At a hearing on the motion to dismiss, generally the Court will give you an opportunity to catch up, but you will be on "probation" for a year or more. Even if the motion to dismiss is withdrawn, you will still be on "probation."

If you have to make extra payments to catch up, the extra payments will not be deducted from your paycheck (if you pay by payroll deduction) or from your checking account (if you pay by bank draft). You must make any "catch-up" payments directly to the Trustee's payment address. See the section of this

Handbook on "Method of Payment: Checks and Money Orders."

## Probation

**While you are on probation, if you are more than 21 days late in ANY plan payment, or if you do not become current by the deadline set by the Court, your case will automatically be dismissed.**

If the Court gives you 90 days to catch up, you must be completely current by the deadline, AND you must still make your regular plan payments on time during that 90-day period.

**For example, if a probation order is entered on January 1 giving you 90 days (3 months) to be current, you must pay the delinquent amount in full on or before March 30, AND you must make your January, February, and March payments on time.**

**While you are on probation, the Trustee's office cannot:**

- × **change your due date**
- × **give you permission to be late with a payment**
- × **stop a probation dismissal to give you another chance to catch up.**

**While you are on probation, mail your payment AT LEAST a week before the due date to make sure it is not late.**

If your case is dismissed while you are on probation, it is highly unlikely you will be able to convince the Court to reinstate your case. Probation is your last chance to avoid dismissal.

## **Suspensions and Plan Modifications**

While you are in chapter 13, if you have an emergency that makes it impossible to make your plan payment for a month or two, your attorney can file a motion to ask the Court to “suspend” your payment. You will have to catch it up, but you may be able to avoid probation.

**Contact your attorney to suspend a payment. The Trustee’s office cannot give you permission to skip a payment, no matter how good the reason is.**

If your circumstances change and you are no longer able to afford your payment, contact your attorney. Depending on your circumstances, it might be possible to lower your plan payments by modifying your plan. However, that is not always an option, especially if you are trying to save equity in your house for example.

**Contact your attorney to discuss your options if you can no longer afford your plan payments.**

**The Trustee’s office cannot lower your plan payment for you.**

## **Hardship Discharge**

Under certain circumstances, you may be able to get a “hardship discharge” even if you have not completed all of the payments your plan requires. Your attorney can tell you if you qualify for a hardship discharge. The hardship discharge can only be granted by the

Bankruptcy Court after a motion is filed and notice is given to all of your creditors.

The Trustee’s office cannot give you a hardship discharge and cannot ask the Court to enter a hardship discharge for you.

## **Conversion to Chapter 7**

Another option may be to change or “convert” your chapter 13 case to a chapter 7. Under the new law, you may not qualify for chapter 7. Chapter 7 might not be the best option for you if you are trying to save your house. Your attorney can advise you of your options.

The Trustee’s office cannot convert your case for you.

## **Important Documents to Keep**

Your attorney will give you a copy of your bankruptcy papers at the beginning of your case (your Petition, Schedules, and Statement of Financial Affairs).

If you get a discharge, also keep a copy of the Order of Discharge that you receive from the Bankruptcy Court.

Keep a copy of the Trustee’s Final Report and Accounting that is filed at the very end of the case; it shows how much the Trustee paid each creditor in your chapter 13 case.

Keep these papers for 10 years. You will need them should you apply for credit in the future, and you may need them to clean up your credit report.

If you lose these papers, you can obtain copies for a fee from the Bankruptcy Court, or you can contact your attorney. The Trustee’s office cannot provide you with copies.

**Also keep this Handbook for future reference!**

### **Getting A Copy of Your Credit Report**

Each of the nationwide consumer credit reporting agencies – Equifax, Experian, and TransUnion – is required to give you a free copy of your credit report, at your request, once every 12 months. This applies to everyone, not just people who filed bankruptcy.

You may choose to request a copy from all three agencies at once, or you might space them out during the year, for example, getting a copy from Experian in January, Equifax in May, and TransUnion in September.

You can make your request through [www.annualcreditreport.com](http://www.annualcreditreport.com), or link to it through the Federal Trade Commission’s website at [www.ftc.gov](http://www.ftc.gov).

You can also call 877-322-8228 to get your free annual credit report, or write to:

Annual Credit Report Request Service  
PO Box 105281  
Atlanta GA 30348-5281.

Wait about 6 months after you get your Discharge Order from the Bankruptcy Court before you make your first request for a credit report.

Each credit reporting agency may show different creditors, so make sure you review a credit report from each agency after you get your Discharge.

Review the report and make sure that all of the creditors whose debts were discharged show a zero balance for the account.

If there are discharged debts that still show a negative payment history (such as “delinquent”), or a present or past due balance other than “0”, send the credit reporting agency a dispute letter with copies of your Discharge, the Schedules showing that you listed the debt in your bankruptcy, and the Trustee’s Final Report. Ask the credit reporting agency to correct the information.

You can contact the agencies as follows:

Equifax  
[www.equifax.com](http://www.equifax.com)  
1-800-685-1111

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Experian  
[www.experian.com](http://www.experian.com)  
1-888-397-3742

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TransUnion  
www.transunion.com  
1-800-916-8800

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If the information is not corrected, contact your attorney for additional assistance.

The Trustee's office cannot correct your credit report.

### **Your Credit Rating**

Your bankruptcy will show up on your credit report for up to 10 years, whether you successfully completed your chapter 13 plan and received a discharge, or whether your case was dismissed. However, some credit reporting agencies will consider removing a discharged chapter 13 case from your credit record after 7 years (though they are not required to).

If you apply for credit in the future, each potential lending institution will review your credit record to decide whether to extend credit and on what terms.

Some lenders may contact you and offer to extend you credit. They know that you will not be able to discharge your debts in another bankruptcy case for several years.

Be wary of any lender who will guarantee you a loan or credit – for a fee. According to the Federal Trade

Commission, advance-fee loans are a growing scam.

Also watch out for offers from companies that promise to clean up your credit report or improve your credit score for you (for a fee, of course). At best, they are charging you for services you can easily do yourself for free. At worst, they are advising you to do something illegal to get a better credit rating. For more information, contact the Federal Trade Commission at [www.ftc.gov](http://www.ftc.gov).

Be careful about going into debt after you have completed your chapter 13 case.

## Calling the Chapter 13 Trustee's Office

Office hours are from 9:00 AM to 4:00 PM Monday through Friday. If you have questions about your case, you can contact the Case Manager for your division. The staff members of the Trustee's office are all well qualified to answer your questions. However, we cannot give you legal advice. The phone number is (859) 233-1527. Follow the instructions of the automated attendant to reach your Case Manager.

*The Trustee's office cannot give you permission to make a late payment or to skip a payment.*

Call the Trustee's office:

- ✓ if you made a payment that was not posted
- ✓ if you need more labels
- ✓ to request a written payoff estimate
- ✓ to verify your due date
- ✓ to change your due date (subject to Trustee approval)
- ✓ to request a printout showing payments you have made
- ✓ to start a payroll deduction order
- ✓ to request another copy of this booklet

Don't call the Trustee's office:

- × to inform us of a late payment
- × to request permission to skip a payment
- × to stop a payroll deduction or bank draft
- × to request that a bank draft not be taken out "this time"
- × to ask for a street address where you can overnight a late payment
- × to ask us to lower your payment
- × to ask us what your rights are
- × to get a copy of your bankruptcy papers
- × to get a lien released
- × to ask about your credit report

## **Definitions of General Bankruptcy Terms**

341 Hearing (or 341 Meeting) – see “Meeting of Creditors.”

Application to Incur Debt – form that must be approved by the Bankruptcy Court before the debtor can borrow money, buy property (like a car) on credit, or refinance an existing loan.

Arrearage – the dollar amount the debtor is behind in payments to a creditor; can be “pre-petition” (the amount behind at the time of filing bankruptcy) or “post-petition” (if the debtor gets behind while in bankruptcy). See also “Delinquency.”

Automatic Stay – federal bankruptcy law that stops creditors from trying to collect debts when a debtor files bankruptcy; may be automatically terminated after 30 days, or may not come into effect at all, if the debtor had a prior case that was dismissed within the previous year. See also “Relief from Stay.”

Bankruptcy Petition Preparer – a person other than an attorney who prepares for a fee a petition or other document for filing in a bankruptcy case; conduct is regulated under federal bankruptcy law.

Bar Date – deadline for a creditor to timely file a proof of claim.

Chapter 13 – wage earner’s plan – allows debtor to pay back debts under Bankruptcy Court supervision.

Chapter 7 – straight bankruptcy – allows certain assets or property to be sold to pay back creditors.

Co-Debtor Stay – an automatic stay that protects people who did not file bankruptcy, but co-signed or guaranteed a debt owed by the debtor who filed bankruptcy.

Confirmation - Court approval of a chapter 13 plan.

Conversion – changing a bankruptcy case from one chapter to another.

Creditors – the people or entities that are owed money.

Debtor – a person who files bankruptcy.

Delinquency – same as arrearage; usually used by the Trustee’s office to refer to plan payments that are past due.

Disallowed Claim – a creditor’s claim that will not be paid because it was not allowed or approved by the Court when a party (the Trustee or the debtor) objected to the claim.

Discharge – the goal of bankruptcy; a discharge cancels or “wipes out” debts that can be discharged.

Dismissal – ending a bankruptcy case before completion of the plan and without a discharge; allows creditors to resume collection efforts.

Disposable Income – the amount of money earmarked to pay your unsecured creditors.

Domestic Support Obligation (DSO) – a debt for child support, alimony, or maintenance owed to a child, spouse, former spouse, guardian, etc., or governmental unit.

Hardship Discharge – a discharge granted to qualified debtors even though they have not completed all plan payments.

Meeting of Creditors – also known as the 341 Hearing; debtors are questioned by the Trustee and attending creditors under oath.

Modification of Plan – a change in the plan after it has been confirmed; requires Court approval.

Nondischargeable Debt – a specific debt that is still owed even if the debtor gets a discharge.

Notice of Allowance of Claims – a report filed by the Trustee several months after a plan is confirmed; shows how claims are to be paid according to the Trustee’s records.

Objection to Claim – a request filed with the Court asking that a claim be disallowed entirely or that the allowed amount be reduced.

“Outside the Plan” – a commonly used term to describe payments a debtor makes directly to a creditor.

Petition – the document filed with the Bankruptcy Court that starts a bankruptcy case; although the bankruptcy papers consist of several different documents (including Schedules and a Statement of Financial Affairs), reference to a “petition” often means all bankruptcy documents filed with the petition.

Prepetition – before bankruptcy.

Probation – an order of the Bankruptcy Court that says a case will automatically be dismissed if the debtor is more than 21 days late for any single plan payment, or if the debtor does not become current in plan payments by the Court’s deadline; usually lasts for one year, but could last longer.

Pro Se Debtor – a person who files bankruptcy without being represented by an attorney.

Proof of Claim – the form that creditors file with the Bankruptcy Court in order to get paid; can also be filed by the debtor on behalf of a creditor to make sure the creditor gets paid.

Postpetition – after bankruptcy.

Relief from Stay – an order of the Bankruptcy Court that allows a creditor to proceed with collection activity such as a foreclosure, repossession, or other method of collecting payments; could be relief from the automatic stay to collect from the debtor, or relief from the co-debtor stay to collect from a co-debtor who is not in bankruptcy (see “Co-Debtor Stay”).

Secured Creditor – a party holding a lien on property or who took some form of collateral as security for a loan.

Trustee – the person appointed to administer bankruptcy cases.

Unsecured Creditor – a party whose debt is not secured by collateral.

## **CHAPTER 13 TRUSTEE EASTERN DISTRICT OF KENTUCKY**

### **If You Want To Access Your Account Via The Internet**

. . . you can do so through the National Data Center (NDC). By reviewing your case information on the NDC's website, you can:

- see if the trustee has received and posted your payments
- review how your creditors are being paid
- estimate your payoff amount

Go to [www.13datacenter.com](http://www.13datacenter.com) and click on "Get Started Now." Follow the instructions to obtain a user ID and password. To get started, you will need:

- your first and last name as they appear on your bankruptcy petition
- your social security number (or the social security number of the person listed first on your petition in a joint case)
- your case number
- your email address

***This website is not hosted by your trustee's office. If you have problems with accessing your information, contact the National Data Center.***

***Please be aware that there may be a two- to three-day delay between when your trustee receives a payment and when the payment shows up on the website.***

***If you believe the account information is incorrect or if you have questions concerning your bankruptcy case, contact your attorney.***

The NDC was developed by the National Association of Chapter Thirteen Trustees to furnish national chapter 13 case information to creditors while protecting the legitimate privacy interest of debtors.

## **CHAPTER 13 TRUSTEE EASTERN DISTRICT OF KENTUCKY**

### **Important Notice: Information On The Internet**

#### **INFORMATION RELATING TO YOUR CHAPTER 13 BANKRUPTCY CASE IS AVAILABLE ON THE INTERNET TO YOUR CREDITORS AND OTHER PARTIES IN INTEREST.**

Pursuant to 11 U.S.C. §§ 1302(b)(1) and 704(7), your Chapter 13 Trustee has a duty, unless otherwise ordered by the Bankruptcy Court, to furnish information concerning the administration of your bankruptcy case as is requested by “parties in interest.”

In furtherance of this duty, your Chapter 13 Trustee makes the following information available to parties in interest who request such information, and this information is available to those parties on the Internet:

- Your name, address, bankruptcy case number, state, and district in which your case is pending, and the trustee assigned to your case. Your social security number is not visible to parties in interest, but they are able to search for your bankruptcy case using your social security number. Also, your employer’s name is not displayed.
- Information regarding claims filed against your bankruptcy case, including the identity of the claimant, the type of claim (e.g., priority taxes, secured, unsecured, etc.), and the amount of the claim.
- A history of all payments (receipts) the Chapter 13 Trustee has received in your case, including the date and amount of each receipt.
- A history of all payments (disbursements) the Chapter 13 Trustee has made to your creditors, including the date and amount of each disbursement and the payee.

“Parties in interest” who have access to this information include your creditors, creditors’ attorneys, your bankruptcy attorney, and the United States Trustee, but do **not** include persons who are merely curious about your case or potential lenders who are offering to loan you money while you are in your chapter 13 case.

You may review, without charge, the information about your chapter 13 bankruptcy case that is posted on the internet with the National Data Center (NDC). If you believe the information is inaccurate, you should contact your attorney, or you can contact the NDC to report the error. You should receive a written response from the NDC within thirty (30) days following receipt of your report.

**FORM: Authorization For Payments By Automatic Bank Draft**

DEBTOR NAME \_\_\_\_\_ CASE NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I/We authorize the Chapter 13 Trustee for the Eastern District of Kentucky (Beverly M. Burden) to initiate debit entries to deduct my/our plan payment from my/our checking account as described below, subject to the Trustee's approval.

If my/our payment amount changes during this chapter 13 case, I/we authorize the Trustee to likewise change the amount withdrawn from my/our checking account.

Until the bank draft starts, I/we understand that I/we must make plan payments by check or money order.

I/We agree that the Trustee can stop automatic bank drafts if any two (2) drafts are returned unpaid by my/our bank for any reason, and that I/we will then make payments by cashier's check or money order.

I/We can revoke this authorization by giving ten (10) days' prior written notice to: Chapter 13 Trustee, PO Box 2204, Lexington, KY 40588-2204.

TO ENROLL, PLEASE:

(1) SELECT DATE OF WITHDRAWAL  
(CHECK ONLY ONE)

\_\_\_\_\_ 10TH  
\_\_\_\_\_ 25TH

WITHDRAWAL WILL BE ON THE DATE SELECTED  
OR THE NEXT BUSINESS DAY

YOUR DUE DATE WILL BE CHANGED TO BE THE  
SAME AS THE DATE YOU SELECT FOR THE  
WITHDRAWAL

(2) PRINT the following information:

MY/OUR BANK'S NAME: \_\_\_\_\_

CITY & STATE: \_\_\_\_\_

BANK ROUTING NUMBER: \_\_\_\_\_

MY/OUR CHECKING ACCOUNT NUMBER: \_\_\_\_\_

(3) ATTACH A VOIDED CHECK.

(4) SIGN AND DATE:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

(5) MAIL THIS PAGE TO: CHAPTER 13 TRUSTEE EDKY, PO BOX 2204, LEXINGTON KY 40588-2204.

CHAPTER 13 TRUSTEE  
EASTERN DISTRICT OF KENTUCKY

**You can now have your plan payment deducted from your checking account automatically each month.\***

*\*Subject to approval by the Trustee.*

Simply fill out and sign the enclosed form, attach a voided check, and return it to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204.

You may choose to have the payment deducted on either the 10th or the 25th of each month. The full amount of the payment will be deducted at one time. We cannot deduct a half payment on the 10th and the other half on the 25th.

If the 10th or the 25th falls on a weekend day or holiday, the withdrawal will be made on the next business day.

If your plan payment changes, the Trustee will automatically change the amount deducted from your checking account. However, if your plan or other court order obligates you to make a lump sum payment by a certain date, for example, your tax refund or proceeds from a lawsuit, you will need to make that payment directly as the Trustee's office will not know how much to deduct from your account.

If you change banks, it is your responsibility to notify the Trustee's office and to fill out another authorization form if you want your payments deducted from your checking account at your new bank.

If any two (2) drafts are returned by your bank as unpaid for any reason (NSF, closed account, etc.), the Trustee's office will discontinue the bank drafts, and you will be required to make plan payments thereafter by cashier's check or money order. *The Trustee reserves the right to reject your request for automatic bank draft if the Trustee has received an NSF check from you.*

The Trustee will stop automatic bank drafts: when you complete all payments under your plan; if your case is dismissed; or if your case is converted to another chapter. However, bank drafts cannot be stopped within five (5) business days before the scheduled withdrawal date. Funds deducted after the date of completion, dismissal, or conversion will be refunded to the debtor by check issued at the end of the month.

You may stop the bank drafts permanently by sending written notice at least ten (10) days before the next withdrawal date to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204. You cannot stop a withdrawal "this time" because the withdrawal will cause your bank account to become overdrawn. You cannot reverse a withdrawal (have the funds put back into your account).

To avoid missing a month's payment while your request for an automatic bank draft is processed, you must continue making your payment until it is actually deducted the first time from your checking account.

CHAPTER 13 TRUSTEE  
EASTERN DISTRICT OF KENTUCKY

**FORM: Payroll Deduction Request**

PLEASE PRINT CLEARLY

I would like my Chapter 13 Bankruptcy payments to be deducted from my paycheck by my employer.

My Chapter 13 Case Number: \_\_\_\_\_

My Name: \_\_\_\_\_

Name and Address of My Employer:  
(Where my payroll actually comes from)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Payroll Contact Person and Phone Number: \_\_\_\_\_

I Am Paid: (Circle one Below)

Weekly                      Bi-Weekly                      Semi-Monthly                      Monthly  
(every 2 weeks)                      (15<sup>th</sup> & 30<sup>th</sup>)

The Trustee's Office will send a Court Order to your Employer. It should take a week or two for payments to begin. (CONTINUE MAKING YOUR REGULAR PAYMENTS TO THE TRUSTEE UNTIL YOU SEE IT HAS STARTED COMING OUT OF YOUR PAYCHECK!)

MAIL THIS FORM TO:                      PDO CLERK  
    CHAPTER 13 TRUSTEE'S OFFICE  
    PO BOX 2204  
    LEXINGTON KY 40588-2204

