

Chapter 13 Office Debtor Handbook Chapter 13 Plan Information

Answers to many common questions that occur in and during a Chapter 13 case. Read in full when you start your case and refer to it when you need an answer.

My Chapter 13 Case Name: _____

My Chapter 13 Case Number: _____

My Payments Are \$ _____ Per Month

Your Trustee's Name, Address and Office Telephone Numbers Are:

Paul H. Davidson

Standing Chapter 13 Trustee

P.O. Box 19300
Shreveport, LA 71149-0300
6007 Financial Plaza -- Suite 713
Shreveport, LA 71129
(318) 687-1300

Mail Payments (only) to:

PAUL H. DAVIDSON
Office of the Chapter 13 Trustee
P.O. Box 647
Memphis, TN 38101-0647

The Chapter 13 Handbook tells you what to expect, what to do and how to handle the problems that can arise.

Case Number

Your Chapter 13 case number is very important. Keep it handy. You should have it available when you call the Chapter 13 Office or make a payment to your plan or write a letter to the Trustee.

Calls to Trustee's Office

The Chapter 13 Office phone number is given to you on the front of this booklet. The office is open five days a week from 8:30 a.m. to 5:00 p.m. Do not feel that you have to talk personally with the Trustee; the Trustee staff is familiar with the policies and guidelines of Chapter 13 and is qualified to discuss with you any problems or questions that may arise and can assist you.

Payments

Payments to your plan should begin immediately. **The first payment must be made within thirty (30) days of the filing of your plan** or 45 days from petition date or your plan could be dismissed or converted to a straight bankruptcy.

The Trustee must ensure you commence timely and regular payments and will enforce this Code provision.

Most of the Chapter 13 payments are made through payroll deduction with the debtor's employment. Only in unusual circumstances will payments be made by the debtor. Any payments made by you personally are to be made by MONEY ORDER or CASHIER'S CHECK and such payments should include your name, address and your Chapter 13 case number. The payment must be paid on a regular basis. Please mail all payments (NO CASH) to P.O. Box. You should keep a record of all payments made to your plan or withheld from your pay. A page is included for your use in recording payments made or withheld by your employer.

Court's Jurisdiction of Wage Order

When payroll deduction is issued to your employer, you and your employer should understand that such an order is not a garnishment. A garnishment can come only from someone to whom you owe money, and you do not owe the Court any money. The Court is simply carrying out its duty to administer the plan you voluntarily filed and in which you voluntarily gave the Court exclusive jurisdiction over your future pay during the course of the plan. Should any employer be inclined to treat such an order as a garnishment, let us know and we will explain to him that you are making an effort to pay your just debts instead of not paying them. We usually find that employers, after an explanation, understand and think more highly of an employee for trying to pay his bills.

Remember. Your employer cannot terminate your employment or discriminate with respect to employment on the basis that you are a 'debtor' or have suffered insolvency or have not paid a dischargeable debt. The Court has exclusive jurisdiction over your wages and property during the pendency of your plan.

What If I Am Temporarily Unable to Make My Chapter 13 Payments?

It is very important to **contact your attorney immediately** if you miss a payment due to layoff, medical disability, etc. If you are temporarily out of work, injured, or otherwise unable to make the payments required under the Chapter 13 plan, the court may upon proper application allow you to suspend payments for a period of time. If it appears that your inability to make the required payments will continue for an extended period, you may be permitted to amend your plan, or the case may be dismissed or converted to Chapter 7. **Remember** - the trustee's office has no authority to let you miss a payment or allow you to pay less than your plan requires. **Only** the judge can make such a decision. Your lawyer can ask the judge to change the requirements of your plan if you feel that you cannot meet the obligations of your plan.

What If I Later Decide That I No Longer Want to Make Payments and to Continue with the Chapter 13 Plan?

Federal bankruptcy law allows the debtor to either dismiss a Chapter 13 case or convert it to Chapter 7 at any time, unless your case has previously converted from another chapter of the bankruptcy code. No one can force you to remain under a Chapter 13 plan if you do not wish to remain. If you desire to stop your case, contact your attorney.

However, **if you simply stop making the Chapter 13 payments**, any creditor in your case may ask the Court to dismiss your case. The Trustee **will** ask the Court to dismiss your case or place you on payroll deduction if:

- a. You fail to make your first payment within thirty (30) days of filing your bankruptcy plan and/or
- b. You fail to make your required payments regularly during any months of your plan.

You should understand that **a dismissal will reactivate all unpaid or disputed debts**, including all interest, all finance charges, all late charges not allowed by the Bankruptcy Court, and all debts of creditors who did not file their claims with the Court. Consider also that you will be forced to deal with those creditors on their terms, not yours or the Courts.

Handling Federal and State Tax Returns and Checks

1. DO NOT FILE "FAST TAX" – ELECTRONICALLY OR BY PHONE. MAIL TAX RETURNS TO THE TAX AGENCY.
2. Complete your Federal and State Tax Returns and get them ready to MAIL to the tax agencies.
3. Make a copy of BOTH Federal and State returns, PUT YOUR CASE NUMBER AT THE TOP, and mail the copies to:

Paul H. Davidson, Trustee
P. O. Box 19300
Shreveport, LA 71149-0300

4. When you get your Federal and State refund checks, put the following on the back of the check in the endorsement section:
 - a. Write "For Deposit Only"
 - b. Sign your name
 - c. Write your case number
5. Mail the check to the Trustee at the address in paragraph 3 above.

Data Changes

Any changes in employment or address must be reported in writing to the Chapter 13 Office immediately. You will be receiving different reports and mailings and the Trustee must have your current address. You should also notify your attorney of such changes.

Contact with Creditors

All the Creditors listed in your Chapter 13 Plan have been sent a notice by the Courts and are under a Court Order which prohibits them from contacting you about your debts.

If you receive delinquent notices from creditors you should send the first notice back with a note telling the creditor that you have filed a Chapter 13 and give your case number. If you get a second notice or threatening letter you should send it to your Trustee and/or attorney. If you are contacted by telephone or visited in person, you should get their name, what company, firm, etc., they represent, tell them you are in Chapter 13, and contact the Trustee Office or your attorney **immediately**.

Under no circumstances are you to discuss the debt with them in any manner. By token, **you** should not contact your creditors.

You cannot pick and choose some particular creditor and pay that creditor "on the side" -- all debts must be dealt with through the Court only. Creditors are to be paid under the terms of the law, not by anyone's personal desires. If you want to know how much you still owe a creditor or your creditors in general, you may write or contact the Chapter 13 Office.

Trustee's Records

If you want or need to know how much you still owe a creditor, or all creditors, you should contact the Trustee's office. The Trustee has computer prepared records of your case available on request. This computerized report shows payments received and disbursed by your Trustee. You should keep your copy for your records.

How Creditors Are Paid

So that you have some idea how creditors are paid, you should know there are three basic types of claims: Priority, Secured, and Unsecured.

Generally, all or part of the attorney fees are paid first, then the secured creditors are paid. Next the taxes which are priority claims are paid and then the unsecured debts are paid. We will not pay more than you stated you owe until you, along with your attorney, have had an opportunity to review all claims filed. For this reason you can see that if we start paying your secured creditor claims and priority debts first, several months could pass before payment to the unsecured creditors begins.

Claims of Creditors

After you have been under the plan approximately four months, we will send you a complete list of every creditor who has filed a claim in your case. This computer list called Trustee's Report of Claims Filed has a complete explanation included and instructions are attached. Creditors have three (3) months from the date of your meeting of creditors in which to file their claims. Any claim not filed within the time limit is a late claim and generally is not paid and not allowed. Tax claims are an exception to this time limit and should be filed and paid. We can pay only those creditors whose claims are filed and approved and are prohibited from paying anyone who did not file a claim. If you complete your plan, any claim that was not filed, except taxes and certain school loans and special claims will be discharged. You should read and examine the Report of Claims Filed as this is a complete list of creditors. If a creditor is listed incorrectly or any amount claimed does not appear to be correct, you should contact your attorney within thirty (30) days from the date in the lower portion of the Report.

Creditors not Listed

Creditors not listed by you when you filed can cause a number of problems. There are two kinds of unlisted creditors; those you owed money to when you filed and forgot to list, (we will call them "unlisted creditors,") and those creditors who have a bill that was incurred after you filed, (we will call this type "post-petition creditors.") If you find an unlisted creditor, one you owe but forgot to list, contact your ATTORNEY. Post-petition creditors, those whose bills were incurred after you filed are rare. As you know you are not to use credit while under Chapter 13, but doctor and various medical expenses can't always be avoided and repair bills do come up. When this happens you should recognize you owe the bill and you should pay it, as it cannot normally be added to your Chapter 13 case. There is an exception to this rule for certain debts which arise after you file your case. Under certain circumstances, taxes and debts which are necessary for your plan to work can be added later and paid through your case. You should contact your ATTORNEY if you think such a debt has come up.

Remember. Your Trustee cannot and will not allow you to miss a Chapter 13 payment so that you can pay "new debts." Your old debts being paid through your Plan come first.

Modification of Chapter 13 Plan

You must propose your plan and your plan must be proposed in good faith. Your plan can also be modified after confirmation upon request by **you, your Trustee or an unsecured creditor.**

Your attorney will assist you with any modification you may need to make. The Trustee's office will also be available to discuss effects of a creditor's requested modification on your present plan.

Remember. Unsecured creditors now have certain rights and can request modification of your plan. You should contact your trustee and attorney if you have questions regarding any proposed modification.

Cosigners and Comakers

If you have a cosigner, comaker or a guarantor (all are called a codebtor) on any of your debts, Chapter 13 generally protects them from collection activities.

However, the protection of the court will be terminated automatically twenty (20) days after the creditor files a request for relief UNLESS you or your codebtor file a written objection.

You should contact your attorney if you and/or your codebtor receive such a request from the creditor.

Remember. The protection for codebtors lasts only as long as your plan or until the court permits the creditors to contact the codebtor, which could be twenty (20) days after a creditor's request. Your plan may treat cosigned consumer debts differently than other claims to protect the codebtor and assist you with success of your plan. Your discharge does not necessarily affect a codebtor's obligation.

Credit Cards and Charge Accounts

The use of credit cards or charge accounts of any kind while under Chapter 13 is the use of credit and is strictly prohibited. This applies to any member of the family that is supported by the debtor under Chapter 13, whether they themselves are under the jurisdiction of the Court or not as long as the party under Chapter 13 may be responsible for the debts. All charge cards must be turned in to the creditor or turned in to the Chapter 13 Office.

Permission for Credit

THE USE OF CREDIT WHILE UNDER CHAPTER 13 IS PROHIBITED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE TRUSTEE. The only exception to this is a medical emergency. If you find you can only replace some necessary article by using credit, you should contact the Chapter 13 Office in writing. Permission is considered for necessary articles only and the amount of credit must be reasonable and within your means of repayment.

Obtaining Credit Without Permission

Obtaining credit without permission of the Trustee is not only violation of the Court's order, it is subject to a reversal by the Court. Any credit purchase you make without the approval may have to be returned. You also could place your plan in serious jeopardy if you obtain credit without approval.

Selling Property

You cannot dispose of any of your property, including land, without obtaining proper permission and/or Court Order. If you sell any of your property for a profit, some of the profit may have to be applied to your Chapter 13 debts. If you dispose of your property without Court authorization, the transaction may be set aside. You should contact your attorney to discuss the sale of property.

Real Estate Debts

Any debts you owe that are secured by a mortgage on real property, or contract for a mobile home, must usually be paid directly by you and should not be paid through Chapter 13 unless the Court specifically authorizes it. Payments like this are included in your budget when your plan is set up for you, and they are something you must take care of yourself. If, for any reason, you are not making your real estate or mobile home payments regularly, you should inform your attorney immediately. These problems can usually be worked out if they are reported before the account becomes too delinquent. Problems concerning real property, foreclosure and liens of creditors on real property are matters that should be discussed with your attorney.

REMEMBER. If you fall behind in your house or mobile home payments, you will generally be given a chance to bring the payments current. The Court cannot allow you to continue to live in the property if you cannot or will not pay for it. Foreclosure could take place if you do not keep payments current.

Property Insurance

You are required to maintain proper insurance on your property. For example, on automobiles, boats and real estate. Failure to maintain insurance, as required by your creditors, may result in a court hearing. If you do not maintain insurance and a Court hearing is held, the Court may dismiss or lift the Stay Order and the Creditor can then proceed with foreclosure proceedings.

Remember. You must maintain insurance on your property as required.

Problems With Employer Because Of Filing Chapter 13

Occasionally we find situations where an officer of a credit union exerts "pressure" on a borrower to the extent that the employee feels his job may be in jeopardy due to the filing of a Chapter 13. Such tactics are illegal in that they constitute an attempt to obtain creditor preferences or to discriminate. Any such actions must be reported to this office immediately.

Discharge Hearing

When you have successfully completed your plan payments you will receive a notice from the Court scheduling a discharge hearing. Your attendance may be required if a creditor objects. You should expect this notice about 2 months after completing your plan.

Request for Dismissal by Debtor

Federal bankruptcy law allows you to request that your Chapter 13 case be dismissed at any time. If you should desire to stop your case, get in touch with your attorney and the Chapter 13 office. However, you should understand that a dismissal will reactivate all unpaid or disputed debts, all interest finance charges and late charges which are not allowed by the Bankruptcy Court, and all debts of Creditors who did not file their claims. In addition you would be forced to deal with those creditors on their terms, not yours or the Court's. The request for dismissal of your plan must be in writing.

Credit Rating

Your credit rating during and after completion of Chapter 13 will be, as it is now and was in the past, the personal opinion of any credit grantor. A rating is not A,B or C or 1, 2 or 3; it is a record of all your past credit performances. This record is made available to a credit grantor and he makes up his own mind, by his own standards, as to whether or not he wants to grant credit to you. Suits, collections, attachments, straight Bankruptcy, credit counseling, and Chapter 13 are indications in one degree or another, of credit problems. How such records are evaluated by any given credit grantor is impossible to say. After many years and hundreds of paid in full Chapter 13 cases in this area, we find that a good number of knowledgeable credit grantors look with respect upon those who have paid in full under Chapter 13. Any credit record that has been blemished by a problem can and should be gradually rebuilt.

Budget Counseling

A budget counselor is available in the Chapter 13 Office to help you with a budget or working with budget problems you may have. You may call the Chapter 13 Office to make appointments with the Budget Counselor, who will assist you and will discuss with you any personal concerns that you may have relating to money. We also encourage you to make an appointment with the counselor at the end of your plan to assist you in readjusting your budget and to discuss rebuilding your credit.

Income Tax Information

When it is time for you to file your yearly income tax return, you may want information from the Chapter 13 office as to who has been paid. This office is not in a position to advise you on how to file your return, or the amount of interest paid, but we will, upon request, provide you with a copy of your report which should give you names of the creditors that received money. Only secured creditors should have any interest to report. You should contact the creditors by letter and request from them the amount of interest credited to your account during the year.

Income Tax Refund

Your Chapter 13 plan or the Order of Confirmation may require that any income tax refunds, Federal and/or State, that you receive be applied to your plan in addition to other payments you are required to make.

If your plan provides that your income tax refunds will be applied to your Chapter 13 plan, upon receipt of the refund check endorse the check payable to the Chapter 13 Trustee and immediately mail it to the Trustee's office.

Failure to remit these refunds to the Trustee will be a condition of default and will place your case in jeopardy.

Contact By Creditor After Completion Of Chapter 13

When a creditor's debt has been paid by Chapter 13, whether partially or in full, he should, and usually does, send the paid in full papers to you. Even if he fails to do this, it is not too significant since the official records of the Court showing that your plan is completely paid would overrule any claim he might make for additional money. Should you receive any request for additional money after your plan is completed, contact your Chapter 13 Office.

Reaffirmation of Debts

Occasionally, a Chapter 13 debtor wishes to or is asked to reaffirm a debt which has been discharged following the successful completion of a case. **YOU DO NOT HAVE TO REAFFIRM ANY DISCHARGED DEBTS.** If you are not represented by an attorney in negotiating the agreement, the Court is required to approve a reaffirmation agreement and can do so only after closely examining your reasons for wanting to reaffirm the debt. If you reaffirm a debt, you have the right to rescind the agreement within 60 days. You should contact the Chapter 13 Office and/or your attorney before you agree to reaffirm ANY DEBT.

