

**INSTRUCTIONS REGARDING
DISTRIBUTION REPORT FOR CLOSED ASSET CASES (FORM 4)
(INCLUDING A QUESTIONS & ANSWERS SECTION AT THE END)**

GENERAL INSTRUCTIONS

**CASES COVERED
BY FORM 4**

Form 4 is required for chapter 7 cases filed or converted on or after 7/1/99. It is submitted with the final account or TDR. Form 4 should not be submitted for cases dismissed or converted to another chapter.

Commencing 4/1/2000, Form 4 must be filed electronically, unless the United States Trustee grants a waiver of this requirement.

HEADER INFORMATION

Enter the case number, case name, trustee name, and date. The date entered is the date Form 4 was prepared by the trustee.

CLAIMS

Allowed claims for which a distribution was made. Zeroes (0's) would be inserted under "Claims" and "\$ Amount Paid" for each claim category in which no amount was paid. (For example, if there is only sufficient funds to pay administrative and priority unsecured claims, the amount of each allowed administrative and priority unsecured claim would be shown under "Claims," and the amount of funds distributed on account of such claims would be shown under "\$ Amount Paid." Zeroes (0's) would be inserted under "Claims" and "\$ Amount Paid" for General Unsecured Claims.)

% OF RECEIPTS

The formula for this column is:

$$\frac{\text{"\$ Amount Received" or "\$ Amount Paid" (whichever applies)}}{\text{Gross Receipts}}$$

All percentages under "% of Receipts" should be based on this formula. The percentages for totals and subtotals (e.g., Total Secured Claims) may not equal the sum of the individual component percentages, due to rounding.

LINE-BY-LINE INSTRUCTIONS

PART A

GROSS RECEIPTS: All funds received by trustee^{1/}, except for funds deposited to the estate in error and refunds of trustee overpayments (an example is a refund of excess bond premium which should be netted against the applicable expense line item).

Funds Paid to Debtor:

Exemptions: Funds disbursed to debtor(s) pursuant to exemptions permitted under Federal or State law.

Excess Funds: Funds disbursed to debtor(s), if any, after all other disbursements made.

Funds Paid
to 3rd Parties:

Funds, other than exemptions and excess funds, disbursed to the debtor, and funds disbursed or turned over in the case by the trustee to third parties who are not parties in interest. Examples may include: payments to non-debtor spouses or other non-debtor co-owners from sales of property in which they have an interest; escrow and other deposit refunds; and tax refunds where a portion belongs to the debtor. Funds disbursed in this category may or may not be compensable, depending upon the facts of the case.

NET RECEIPTS: The sum of gross receipts less funds paid to debtor and non-estate funds paid to 3rd parties. The amount of net receipts equals total disbursements, which may be the basis for computing the maximum trustee fee.

SECURED CLAIMS^{2/}:

Real Estate: Funds disbursed to all pre-petition lien holders, except for tax liens.

**Personal Property &
Intangibles:** Funds disbursed to all pre-petition lien holders, except for tax liens.

Internal Revenue Service

^{1/}In some instances (e.g., real estate sales), the trustee may receive a “net” check (i.e., the gross sales price less payments to secured creditors, real estate commissions, closing costs, etc.). The gross sales price is to be reported under Gross Receipts and the deductions are to be reported in the appropriate categories for the claims and the administrative expenses, as applicable.

^{2/}Secured claims do not include liens for administrative expenses for purposes of this form.

Tax Liens: Funds disbursed to all pre-petition lien holders. (Do not include payment of tax claims which became due after petition date. Said tax payments should be included in Chapter 11 or Chapter 7 tax categories, depending on the date the taxes became due.)

Other Governmental Tax Liens: Funds disbursed to all pre-petition lien holders. (Do not include payment of tax claims which became due after petition date. Said tax payments should be included in Chapter 11 or Chapter 7 tax categories, depending on the date the taxes became due.)

TOTAL SECURED CLAIMS: The sum of total secured claims by column.

PRIORITY CLAIMS:

**CHAPTER 7
ADMINISTRATIVE FEES
507(a)(1) and CHARGES
under Title 28, Chapter 123:**

Trustee Fees: Total fees paid to trustee pursuant to § 330(a).

Trustee Expenses: Total interim and final expense reimbursements paid directly to the trustee pursuant to § 330(a).

Legal Fees & Expenses:

Trustee's Firm Legal Fees: All legal fees paid to trustee or trustee's firm.

Trustee's Firm Legal Expenses: All legal expenses paid to trustee or trustee's firm.

Other Firm's Legal Fees: All legal fees paid to other firms.

Other Firm's Legal Expenses: All legal expenses paid to other firms.

Accounting Fees & Expenses:

Trustee's Firm Accounting Fees: All accounting fees paid to trustee or trustee's firm.

Trustee's Firm Accounting Expenses: All accounting expenses paid to trustee or trustee's firm.

Other Firm's Accounting Fees: All accounting fees paid to other firms.

Other Firm's Accounting Expenses:	All accounting expenses paid to other firms.
Real Estate Commissions:	All commissions and expenses paid to professionals for the sale of real property.
Auctioneer/Liquidator Fees:	All fees paid to auctioneer or liquidator of personal property.
Auctioneer/Liquidator Expenses:	All expenses paid to auctioneer or liquidator of personal property.
Other Professional Fees/ Expenses:	All other professional fees and expenses paid. (In order to be included in this category, fees and expenses must be paid only to professional employed pursuant to § 327 of the Code, and not be included in one of the other fee and expenses categories. For example, professional fees and expenses for appraisers and expert witnesses should be included in this category.)
Expenses of Operating Business in Chapter 7:	All costs of operating a business pursuant to Bankruptcy Court order, except professional fees and expenses specifically listed above. Includes payroll taxes paid in connection with operating a business in chapter 7.
Other Expenses:	All other allowed expenses not otherwise included under Trustee Expenses, including bond premiums and other costs paid directly by the estate, but not including taxes, court costs, and unpaid United States Trustee fees.
Income Taxes - Internal Revenue Service:	All income taxes which first become due to the IRS after the bankruptcy petition filing date.
Other State or Local Taxes:	Other state or local taxes which first become due after the bankruptcy petition filing date.
United States Trustee Fees:	All U.S. Trustee Chapter 11 fees paid by the trustee in chapter 7 proceeding.
Court Costs:	All costs paid by the trustee to the Bankruptcy Court, including noticing fees, filing fees, etc.
TOTAL CHAPTER 7 ADMINISTRATIVE FEES & CHARGES:	The sum of chapter 7 administrative fees and charges by column.
TOTAL PRIOR CHAPTER ADMINISTRATIVE FEES	

507(a)(1):	See Part B below.
WAGES §507(a)(3):	Wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual. (See Code for specific requirements)
CONTRIBUTIONS: EMPLOYEE BENEFIT PLANS §507(a)(4):	Payments to an employee benefit plan. (See Code for specific requirements.)
ALIMONY & CHILD SUPPORT§507(a)(7):	Payments to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child. (See Code for specific requirements)
CLAIMS OF GOVERNMENTAL UNITS §507(a)(8):	Payments to governmental units, only to the extent that such claims are for – (a) a tax on or measured by income or gross receipts; (b) a property tax; (c) a tax required to be collected or withheld for which the debtor is liable; (d) an employment tax; (e) an excise tax; (f) a customs duty arising out of the importation of merchandise; or (g) a penalty related to a claim specified in §507(a)(8). (See Code for specific requirements.)
OTHER §507(a)(2), (5), (6), & (9):	(See Code)
TOTAL PRIORITY CLAIMS:	The sum of total priority claims by column.
GENERAL UNSECURED CLAIMS:	All unsecured claims paid.
TOTAL DISBURSEMENTS:	The sum of total secured, priority, and unsecured claims by column.

PART B

PRIOR CHAPTER ADMINISTRATIVE FEES §507(a)(1):	PART B (Prior Chapter Administrative) instructions are essentially the same as the PART A (Chapter 7 Administrative) instructions. Note that chapter 11 payroll taxes paid during the pendency of chapter 7 should be reported under “Operating Expenses” in Part B.
---	--

**DISTRIBUTION REPORT FOR CLOSED ASSET CASES (FORM 4)
QUESTIONS AND ANSWERS**

- 1) Where should the chapter 11 payroll taxes (e.g., 941 taxes) paid during the pendency of chapter 7 appear on the Form 4 for a converted case?**

These payroll taxes should be reported under “Operating Expenses” in the section titled “Prior Chapter Administrative Fees.”

- 2) What about payroll taxes paid in connection with an operating chapter 7 case?**

If payroll taxes are paid in connection with operating a business in chapter 7, the taxes should be reported under “Expenses of Operating Business in Chapter 7.”

- 3) An attorney is alleging a claim on all funds pursuant to an attorney’s charging lien. If the attorney is successful, he will never have formally filed a claim and yet will have funds disbursed to him. How is this situation reported on Form 4?**

The distribution to the attorney should be reported as though the attorney had filed a claim. The amount allowed is included under “Claims” and the amount distributed is included under “\$ Amount Paid.”

- 4) Which date should be inserted in the Form 4 header?**

The date prepared by the trustee.

- 5) Where should the trustee report the interest paid to each type of claim as provided in § 726(a)(5).**

The amounts reported under “\$ Amount Paid” should include any interest paid to the creditor.

- 6) Would a § 506(c) expense allowed to a trustee fall under “Other Expenses”?**

Not necessarily. The fact that a creditor reimburses the expense does not make any difference. A § 506(c) expense should be categorized the same as any other expense on Form 4. This may be “Other Expenses” much of the time, but if the expense is for professionals, it should be classified under the appropriate category.

7) **What is the difference between “Trustee Expenses” and “Other Expenses”?**

“Trustee Expenses” consists of expenses originally incurred out-of-pocket by the trustee for which the trustee received reimbursement under § 330(a).

“Other Expenses” covers allowed expenses not otherwise included in the other categories on Form 4. It includes the cost of storage, insurance, locks, etc., paid directly to the provider by the estate. It specifically excludes fees and expenses paid to the trustee pursuant to § 330(a), attorney and professional fees and expenses, expenses of operating a business in a chapter 7 case, taxes, court costs, and United States Trustee fees.

**DISTRIBUTION REPORT FOR CLOSED ASSET CASES (FORM 4)
QUESTIONS AND ANSWERS**

- 8) **With respect to sales of real estate and other transactions where a “net” check is remitted to the trustee, how are the gross receipts and deductions (e.g., constructive disbursements) to be reported on Form 4?**

The gross proceeds from the sale (e.g., real estate sale, auction) are to be reported under Gross Receipts, regardless of the amount actually remitted to the trustee. The deductions (e.g., payments to secured creditors, commissions, closing costs) are to be reported in the applicable claims or administrative expense categories. See page 1 of the Form 4 Instructions.

- 9) **With respect to submission of the electronic Form 4, we understand that trustees will be able to submit the data files on diskette or by e-mail. Does there need to be a separate data file for each Form 4, or may the trustee combine several Form 4s in a single data file? (Since trustees sometimes submit Trustee Distribution Reports (TDRs) in batches, it would be helpful if a single data file could contain the Form 4 that goes with each TDR included in the batch.)**

The Program will be able to handle either situation. Trustees have the choice of submitting a separate electronic file for each Form 4, or they may include several Form 4s in one electronic file.

- 10) **The sample Form 4 does not show the dollar amounts with cents (e.g., 1.23). However, the electronic Form 4 specifications require that each dollar data field be reported to two decimal places. Please clarify this apparent inconsistency.**

The sample Form 4 was for illustrative purposes. Effective January 1, 2000, the dollar amounts on both the hard copy and electronic versions of Form 4 must include the cents, so that the amounts exactly match the TDR amounts.

- 11) **Please provide further clarification in regard to Q and A #5. In many jurisdictions, it appears to be an accepted and prevalent practice to treat interest separately from the claim itself. In this situation, the software vendor plans to tell its customers to treat all interest paid as unsecured interest reportable under “General Unsecured Claims.” Otherwise, it would cause a serious programming problem because the software cannot categorize interest one way for the courts and another way for Form 4. Is this vendor’s plan acceptable?**

Yes. Both reporting methods are acceptable, pending further review by the Chapter 7 Subcommittee.

- 12) Please clarify how the trustee’s name must appear in the electronically transmitted Form 4.

Field #5 (Last Name) Field #6 (First Initial, with period) BOTH UPPERCASE
 WARD J.

- 13) Please clarify how the Version Number must appear in the electronically transmitted Form 4.

Field #1 (Version) This is a text field, with a length of 3 spaces. The version number is a left-justified single digit.
 1

- 14) Please indicate where the following types of distributions would be reported on Form 4:

<u>Question</u>	<u>Answer</u>
Accountant for the Debtor	Ch. 7 Admin: Other Professional Fees/Expenses
Chapter 11 Wage Claims	Prior Ch. Admin: Operating Expenses
Subordinated General Unsecured & Late Filed Claims	General Unsecured Claims
Chapter 7 Wage Claims	Wages 507(a)(3) if pre-petition wages Expenses of Operating Business in Chapter 7 if post-petition wages

- 15) Please define the term “liquidator.” Is a liquidator a professional?

The liquidator is a professional who may be hired to settle the affairs of a business by selling its assets to pay creditors. These professionals may advertise their services as “auctioneers/liquidators.” In a bankruptcy case, the liquidator essentially performs the same functions as an auctioneer and should be treated as such for purposes of reporting the chapter 7 distribution statistics.

- 16) Is an “agent” or “administrative assistant” hired by the trustee to sell an asset a “liquidator?”

Such a person could be a liquidator. It depends on the tasks assigned. If the person is an employee of the trustee’s office, full or part-time, payment for duties performed which are not overhead will be a trustee expense and, if allowed, reimbursed to the trustee. If the agent or administrative assistant is hired pursuant to court order and will be paid pursuant to court order from assets of the estate, such payments should be recorded as “Other Expenses,” unless the person falls within the definition of professional or liquidator (as

described in Q and A #15). In those instances, the payment will be recorded in the appropriate specific category.

17) Where should real property taxes be reported?

Pre-petition real property tax claims are reported under “Secured Claims: Other Governmental Tax Liens.” Post-petition real property taxes are reported under “Ch. 7 Admin.: Other State or Local Taxes.”