

**WHAT YOU SHOULD KNOW ABOUT
YOUR CHAPTER 13 CASE**

**IMPORTANT INFORMATION
PLEASE READ**

**ANSWERS TO MOST OF THE QUESTIONS
THAT COME UP WHILE UNDER CHAPTER 13.
READ IN FULL WHEN YOU START YOUR
CASE, THEN REFER TO IT LATER OR WHEN
YOU NEED AN ANSWER.**

**Put your Chapter 13 Case Number _____
on all Payments and Correspondence sent to the
Trustee.**

**Mailing Address: Chapter 13 Trustee
P.O. Box 511
Chattanooga, TN 37401-0511**

**Physical Address: 100 W ML King Blvd
Suite 303 (Krystal Building)**

Phone: (423) 265-2261

Fax: (423) 266-5816

Web Page: www.ch13cha.com

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“How to” for those under chapter 13. A few notes on things that come up while you are under Chapter 13. What to do and how to do “something about it” when problems come up.

YOUR CASE NUMBER. Your Chapter 13 case number is very important. Keep it handy. You will need it when you call the Chapter 13 Office or make a plan payment.

CALLSTOTRUSTEE’S OFFICE. The Chapter 13 Office phone number is given to you on the front of this booklet. The Office is open Monday - Thursday 7:30 a.m. to 5:00 p.m. and Friday 7:30 a.m. to 12 noon. Do not feel that you have to talk personally with the Trustee; the staff is familiar with the policies and guidelines under Chapter 13 and is well qualified to discuss with you any problems or questions that may arise. The Trustee staff cannot answer legal questions. These questions must be answered by your attorney.

CASE INFORMATION BY INTERNET. Your Chapter 13 case information is available by internet web access. The website is www.trustee13.com. Access your case information by entering your case number (with a hyphen after the first two digits) as your user name. Your password is the last 4 digits of your Social Security Number.

Information obtained from the internet may not be used for payoff purposes. This information may only be obtained by contacting the Closing Department in the Chapter 13 Trustee Office.

PAYMENTS. Most of our Chapter 13 payments are made through a payroll deduction with the debtor's place of employment. Only in unusual circumstances does the Court allow payments to 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 Chapter 13 case number and your name and address. The payment must be made by the due date. Do not mail or bring any cash payments to the Chapter 13 Office. Cashier's checks and money orders should be made out to Chapter 13 Trustee. Any changes in employment or address must be reported to the Chapter 13 Office immediately.

THOSE PERSONS RECEIVING SOCIAL SECURITY OR OTHER FIXED INCOME. If you receive fixed income and your money is sent to your checking account you are eligible for an automatic withdrawal of your Chapter 13 payment from your account. This is to make paying your case easier. Forms will be provided on request.

COURT'S JURISDICTION OF WAGE ORDER. If an order is issued to your employer, you and your employer should understand that such an order is not an attachment. An attachment 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 an attachment, let us know and we will try to get him to understand 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.

CONTACTS BY CREDITORS. All the creditors you listed on your Chapter 13 case are under a Restraining Order which prohibits them from bothering you in any way. If you get notices in the mail from creditors, you can ignore the first few. If the notices continue, contact your attorney. Delinquent notices need not cause any great concern. But if you get a more personal, direct contact from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person, you should immediately inform them that you are under Chapter 13, give them the name and address of your attorney, get the name of the party contacting you and report it to your attorney's Office. Under no circumstances are you to discuss the debt with them in any manner. Please be certain to get the name of the party if you are contacted personally. Your attorney should follow up on such a call.

BALANCE DUE CREDITORS. You may not deal with a creditor just as they may not deal with you. You cannot pick and choose some particular creditor and pay him "on the side" as all debts must be dealt with through the Court only. Any payment made by you would be illegal and would have to be reversed by the court. All creditors must be paid by the court 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 all creditors, call the Claims Department in our Office at extension 141. Your message will be recorded and your call returned.

CLAIMS OF CREDITORS. After you have been under the plan approximately five months, we will send you a complete list of every creditor who has filed a claim in your plan, the Trustee's Notice of Claims Filed. You will then have a record of all transactions. Creditors, other than governmental units, have three months from the date of your meeting of creditors in which to file their claims. Governmental creditors have six months from the date your plan is filed to file their claims. We can pay only those 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, student loans, alimony, and child support, will be discharged. You should read and examine carefully the Trustee's Notice of Claims Filed which is the complete list of creditors mailed to you after five months. If a creditor is listed incorrectly or any amount claimed does not appear to be correct, you should contact your attorney immediately upon receipt of the Trustee's List of Claims Filed.

CREDITORS NOT LISTED. Creditors not listed by you when you filed can cause quite a few problems. There are two kinds of unlisted creditors: Those to whom you owed money 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 owed but forgot to list, you must let your attorney know the details immediately. If it is not too late, we will do everything we can to include the creditor in the plan and protect you from him. Time is important here so do not delay if one shows up. Post-petition creditors, those whose bills were incurred after you filed, are rare. As you know, you are not allowed to use credit while under Chapter 13. However, 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: The 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 case come first.

HOW CREDITORS ARE PAID. The money you pay to the Trustee is used to pay all expenses, including your attorney and your creditors. So that you will have some idea as to how the creditors are paid, you should know that there are three basic types of claims: priority, secured, and unsecured. Generally you can say that we pay secured claims first, then the priority claims (taxes), and then the unsecured. We do not pay anything on the unsecured claims until the secured claims and the priority claims are current in monthly payments. Due to this, it could be several months before the first payment is made on unsecured claims.

COSIGNERS AND COMAKERS. A cosigner, comaker or guarantor on any of your consumer debts is protected from contact by the creditor by the codebtor stay. This stay protects them only if they did not receive any of the money from the loan. It also protects them only for the amount of debt which your plan proposes to pay. If your plan is not scheduled to pay all creditors in full, a creditor may obtain permission to proceed to collect from the cosigner, comaker or guarantor the percentage of the debt that your plan is not going to pay. The Order confirming your plan will state what percentage will be paid on your unsecured debt. If that percentage is not 100% then any creditor which has a cosigner, comaker or guarantor on your note may apply to the Court at any time to go against your cosigner, comaker, or guarantor for the percentage of the debt that your plan is not scheduled to pay. The application will be allowed unless your plan is scheduled to pay 100% to this creditor. If the cosigner, comaker or guarantor has given collateral for the loan, the creditor must request a hearing before the Court in order to proceed against the cosigner's, comaker's or guarantor's property.

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 permission of the Trustee. The only exception to this is a medical emergency. If you find you must replace some necessary article by using credit, you should contact your attorney, who will complete a form for you to bring to the Trustee for approval. 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 Court is not only a violation of the Court's order, it is subject to reversal by the Court. Any credit purchase you make without approval of the Court would be illegal, the goods would have to be returned, and you very likely would be out any payment you had made. You also 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 permission from the Court. If you sell any of your property for a profit, some of the profit will have to be applied to your Chapter 13 debts. If you dispose of your property without Court authorization, the transaction may be set aside.

CHECKS HELD BY OTHERS. A Creditor may hold a check you wrote for cash or purchase of goods, etc. that was not honored by your bank. The holder of the check may join in the plan as a creditor or prosecute the transaction as a crime. Giving a bad check

is a criminal matter, and you may have to take care of this matter outside of the plan. The Restraining Order in your case does not stop a criminal prosecution.

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. Any such actions must be reported to the Trustee's Office immediately.

REQUEST FOR DISMISSAL BY DEBTOR. In most cases, 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. However, you should understand that a dismissal will reactivate all unpaid or disputed debts, all interest, finance charges and late charges not allowed by the Court, and all debts to creditors who did not file their claims. In addition, you would be forced to deal with those creditors on their terms, not on 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 who looks at your record. A credit 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. Lawsuits, 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 thousands of

paid-in-full Chapter 13 cases in this area, we find a good many knowledgeable credit grantors looking with respect upon those who have paid in full under Chapter 13. Any credit record that has been blemished by a problem must be gradually rebuilt.

RE-ESTABLISHING CREDIT. After you have successfully completed your Chapter 13, you will want to begin rebuilding your credit. This will take time, so you will need to proceed slowly and carefully. A record of your Chapter 13 will be on file at the Credit Bureau where it remains for a period of 7 years from the date the Chapter 13 was filed. When you apply for credit the firm will obtain a credit report, so tell them when you make application that you have successfully completed a Chapter 13 plan. It would be best to begin with small local firms whose credit requirements are not as strict as the large national firms. Remember, be careful and make small purchases with each payment being made when it is due. Establish a paid-out record with several small firms before applying for a national credit card. Rebuild your credit by making your payments promptly and not over extending yourself.

INCOME TAX INFORMATION. Under current tax law, personal interest paid on consumer debts is not tax-deductible. Interest paid on mortgages on qualified residences is generally deductible for taxpayers who itemize deductions. Although the Trustee's Office computes and pays interest on certain secured claims and makes payments on some mortgages, the Office has no control over how the creditor applies the payment regarding principal reduction or interest expense. At the end of the year you should receive a Form 1098 from your mortgage company showing the amount of interest they calculated you paid during the year. If you do not receive information from creditors about interest, you should contact the creditors by letter and request the information from them as to the amount of interest credited to your account during the year. If personal interest should become tax-deductible again, you will

have to receive information from the creditors regarding the interest they recorded as being paid on your accounts.

CONTACT BY CREDITOR AFTER COMPLETION OF CHAPTER 13. When a creditor has had his debt 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 attorney.

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.** Since a reaffirmation violates the spirit of the bankruptcy laws the Court is required to approve any reaffirmation and can do so only after closely examining your reasons for wanting to reaffirm the debt. If a collector has gotten you to reaffirm a debt without the Court's approval, you cannot be forced to repay it.

FOR DEBTORS ENGAGED IN BUSINESS. If you are self employed and have employees, there are additional requirements. You must file all tax reports and pay the appropriate taxes on time. You must also make a report to the Trustee each month in writing of the operation of your business. The report should contain an itemization of all your receipts and disbursements. Failure to take care of these matters may result in dismissal of your case.

CLOSING YOUR CASE. When your case is ready to close, a wage-releasing order will be sent to your employer. The employer may stop payments only at this time to the trustee. You will receive a refund of any money that was not disbursed to your creditors. When the wage-releasing order is sent, the U.S. Bankruptcy Court will issue

a discharge. You will be issued a Final Report and Account after all outstanding checks have cleared our Bank.

DISCHARGE. Upon successfully completing your plan you may be entitled to a discharge. However, there are a couple of stumbling blocks that may interfere with your ability to obtain this discharge.

FIRST, if you are obligated to pay domestic support (child support, alimony, etc.), then to be eligible for a discharge you must be current on all domestic support obligations and you must file a certification with the court stating that all domestic support obligations are current. **NO DISCHARGE WILL BE ISSUED IF YOU FAIL TO COMPLY WITH THIS CONDITION.**

SECOND, you must complete an instructional course concerning personal financial management. (This condition of discharge is quite different from the requirement that you complete a credit counseling session before you were able to file a bankruptcy petition.) **NO DISCHARGE WILL BE ISSUED IF YOU FAIL TO COMPLY WITH THIS CONDITION.** The trustee suggests upon completing the instructional course concerning personal financial management that you file with the Court a certificate of completion.

REFUNDS. Upon completion of your plan you may be entitled to a refund of undistributed money. It is very important that you keep us notified of your current address so any mailed refund will reach you. Money for which we cannot locate the debtor or creditor has to be paid to the Clerk of the Bankruptcy Court and may be claimed there by a motion filed by your attorney.

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