

Chapter 7 Monthly Operating Reports

- **Operating a Business** – under *section 721*, the court may **authorize** a trustee to operate the business of a debtor for a limited period of time if the operation is in the best interest of the estate and such operation is consistent with the liquidation of the estate.
- **Consult with the Office of the United States Trustee** – prior to seeking authority to operate the business **consult with your local UST Office** to discuss the nature of the operation, cash management controls and to discuss the *monthly* operating forms that are to be filed as required by *section 704(8)*. At a minimum, a monthly operating report will contain a Form 2, bank statements and a narrative of the operations to date. **The initial consultation with the UST Office** will determine if any additional information will be added to the monthly reporting requirements.
- **Tax Consequences of Operating the Business** – the trustee must consider if the operation of the business will result in any tax ramifications for the estate including payroll tax issues. If the business has employees the trustee must withhold applicable payroll withholding and employment taxes from any wages paid as well as file employment tax returns and issue W-2s or 1099s, if applicable. For more guidance on this issue including the appropriate tax returns that are required to be filed, the Trustee can consult *IRS Circular E (Employer's Tax Guide)* and the *Handbook, Chapter 4, Page 4-7 to 4-8*.
- **Insurance** – the trustee must ensure that the estate's assets are insured against all normal business risks as required including worker's compensation, if necessary.
- **Length of Operation** – the trustee should seek to operate the business for the shortest practical period. The trustee should close the case, liquidate the business or convert the case to Chapter 11 within a reasonable time, normally not to exceed one year from entry of the order authorizing the operation of the business.
- **Resources** – Refer to the *Handbook, Chapter 4, Page 4-29 to Page 4-31* along with the items referenced above.