

## The Forms They Are a Changin'

A review of the new bankruptcy forms that are effective as of December 1, 2015

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1. Notice of Filing, Proof of Claim and Discharge Order
  - a. Notices of Bankruptcy Filings
    - i. Form 309A (Chapter 7- Individual Debtors- No proof of claim)
    - ii. Form 309B (Chapter 7- Individual Debtors- Proof of claim deadline)
    - iii. Form 309C (Chapter 7- Non-Individual Debtors- No proof of claim)
    - iv. Form 309E (Chapter 11 – Individual Debtors)
    - v. Form 309F (Chapter 11 – Non-Individual Debtors)
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    - ix.
  - b. Petitions
    - i. Individual Debtors (Forms 101, 101A, 101B)
    - ii. Non-Individual Debtors (Form 201)
  - c. Proof of Claim Form 410, 410S1, 410S2
  - d. Order for Discharge (Chapter 7) (Form 318)
2. Schedules
  - a. Schedule A/B (individual) (Form 106A/B)
  - b. Schedule A/B (non-individual) (Form 206A/B)
  - c. Schedule C (Form 106C)
  - d. Schedule D (individual) (Form 106D)
  - e. Schedule D (non-individual) (Form 206D)
  - f. Schedule E/F (individual) (Form 106E/F)

- g. Schedule E/F (non-individual) (Form 206E/F)
- h. Schedule G (individual) (Form 106G)
- i. Schedule G (non-individual) (Form 206G)
- j. Schedule H (individual) (Form 106H)
- k. Schedule H (non-individual) (Form 206H)
- l. Schedule I (Form 106I)
- m. Schedule J (Form 106J)
- n. Schedule J-2 (Form 106J-2)
- o. Statement of Financial Affairs (individual) (Form 107)
- p. Statement of Financial Affairs (non-individual) (Form 207)
- q. List of 20 Largest Unsecured Creditors (Individual Ch. 11 - Form 104)
- r. List of 20 Largest Unsecured Creditors (Non-Individual Ch. 11 and Ch. 9 cases- Form 204)
- s. Declaration Under Penalty of Perjury for Non-Individual Debtors. (Form 202)
- t. Cover Sheet for Reaffirmation Agreement (Form 427)

Forms Number Conversion Chart available at <http://www.uscourts.gov/rules-policies/pending-rules-amendments/pending-changes-bankruptcy-forms>

## New Bankruptcy Forms (Effective December 1, 2015)

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(Outline used with permission from Nicole Pellerin)**

### BACKGROUND

The Judicial Conference of the United States is the national policy-making body for the federal courts. Membership is comprised of the Chief Justice of the United States, the chief judge of each judicial circuit, the Chief Judge of the Court of International Trade and a district judge from each regional judicial circuit.

The Chief Justice summons the Judicial Conference into session annually. Generally, the annual session is called in September and the semi-annual session in March. Members are required to attend unless they are specifically excused by the Chief Justice, who will designate a replacement.

The Conference operates through a network of committees to address and advise on a wide variety of subjects such as information technology, court administration, rules of practice and procedure, etc. The committees are policy-advisory entities only and have no independent authority or charge apart from that conferred upon them by the Conference. Within most committees is a subcommittee. For example, a subcommittee of the Committee on Rules of Practice and Procedure is the Advisory Committee on Bankruptcy Rules.

In September 2007, the Advisory Committee on Bankruptcy Rules approved in principle and authorized the organization of a subcommittee or other working group to review and propose revision of the then-existing Official

Bankruptcy Forms. The stated purpose was to better serve all participants in the bankruptcy process and to reflect changes in CM/ECF and other relevant technology. This recommendation was brought before the Committee on Rules of Practice and Procedure in January 2008.

In 2008, the subcommittee on forms, with the assistance of a group of experienced bankruptcy practitioners, court staff and judges began the Forms Modernization Project. This group studied the forms' content, ways to make the forms easier to use and more effectively meet the needs of the judiciary and all those involved in bankruptcy matters and how to take advantage of technology advances.

To make the bankruptcy forms easier to understand and use, conversational language is used, checkboxes are prevalent and different fonts/sizes are used to differentiate content. Further, two sets of forms are created. One for individual bankruptcy cases and the other for non-individual bankruptcy cases.

Some of the modernized forms are already in effect and will simply be renumbered on December 1, 2015. Other forms were published for public comment in August 2013 or 2014 and have been approved by the Advisory Committee on Bankruptcy Rules and the Committee on Rules of Practice and Procedure (the Standing Committee). All but six existing official forms are on track to be replaced by modernized versions.

Individual forms are numbered in the 100s; non-individual forms in the 200s; Court forms in the 300s; and Director's forms in the 400s.

## INDIVIDUAL FORMS

### **Form 101                      Voluntary Petition for Individuals Filing for Bankruptcy**

Form 101 replaces the Official Form 1 Voluntary Petition. It's been revised to be easier to read with the goal of generating more complete and accurate responses. It's been divided into seven (7) parts and references to Exhibits A, B, C and D have been eliminated.

#### *Part 1:            Identify yourself*

Information requested in this part is the same identifying information requested in the old form: name, aliases, social security number, business names, residence and mailing address. However, line 6 pertains to venue and replaces the venue box on page two of the old form. Venue questions pertaining only to non-individuals have been deleted.

#### *Part 2:            Tell the Court about your Bankruptcy Case*

Much of the information requested is the same, but line 7 – the Chapter of bankruptcy being filed – no longer has Chapters 9 or 15 as options. Further, the "Certification by a Debtor Who Resides as a Tenant of Residential Property" on page 2 of the old form is replaced with line 11: "Do you rent your residence?" and references Form 101A.

#### *Part 3:            Report About Any Businesses You Own as a Sole Proprietor*

Like the old form, line 12 includes check boxes for the "nature of business," but excludes options not applicable to individuals (railroads and clearing banks). Line 13 rephrases the question related to whether a debtor filing under Chapter 11 is a small business debtor and eliminates the checkbox to

report whether a plan was filed with the Petition or if plan acceptances were solicited pre-Petition.

*Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention*

Line 14 replaces Exhibit C of the old form and adds a category of property that “needs immediate attention.”

*Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling*

Line 15 replaces Exhibit D, uses simplified definitions of “incapacity” and “disability,” informs the debtor of the ability to file a motion for a waiver, and eliminates certain statutory references.

*Part 6: Answer These Questions for Reporting Purposes*

This part asks about the amount of debt, number of creditors, asset value and whether a chapter 7 debtor believes there will be assets. Line 16 asks about the types of debt (consumer or business), and if the debtor believes his debt are not properly characterized as either, he must write in the type of debt.

*Part 7: Sign Below*

This part contains the signature blocks for the debtor and for the attorney (the signature blocks for corporations/partnerships and Chapter 15 Foreign Representatives have been eliminated). If a debtor is not represented by an attorney, there is a second page that must be completed and signed by the debtor.

The debtor’s declaration for both unrepresented and represented debtors has been amended to delete the phrase, “to the best of my knowledge,

information, and belief” to comport with 28 U.S.C. § 1746. The new debtor’s declaration states:

I have examined the petition, and I declare under penalty of perjury that the information provided is true and correct.

If the debtor is represented, the attorney must now sign in just one place on Form 101 as Exhibit B was removed. The signature block for a non-attorney bankruptcy petition preparer has been removed as unnecessary and the declaration required under 11 U.S.C. § 110, is now in Form 119.

If the debtor is unrepresented, he must complete and sign a second page. This page is by and large a warning to the unrepresented debtor. It discusses the significance of a bankruptcy filing, warns the debtor of the difficulty in representing oneself in bankruptcy, advises the debtor he will be expected to follow all the pertinent rules and procedures, and it discusses bankruptcy fraud. Further, an unrepresented debtor must answer the following two questions:

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

<b>Form 101A</b>	<b>Initial Statement About an Eviction Judgment Against You</b>
<b>Form 101B</b>	<b>Statement About Payment of an Eviction Judgment Against You</b>

These two forms are new and replace the "Certification by a Debtor Who Resides as a Tenant of Residential Property" in the old form 1.

Form 101A is completed only if the landlord has a judgment of eviction against a debtor. It explains that if the debtor wishes to remain in the residence, he has 30 days after filing the bankruptcy petition to complete the Certification About Applicable Law and Deposit of Rent.

Form 101B is for debtors that want to stay in the residence for more than 30 days after the filing of the petition. With this Form, the debtors are certifying under penalty of perjury that they have the right to stay in the residence under state law or other nonbankruptcy law if they pay the landlord the entire delinquent amount and that they have paid the landlord the entire amount owed as stated in the judgment for possession or in the eviction judgment.

**Form 103A            Application for Individual to Pay the Filing Fee in Installments**

**Form 103B            Application to Have the Chapter 7 Filing Fee Waived and Order on Application to Have the Chapter 7 Filing Fee Waived**

These are by and large the same forms, but numbers have been changed to comport with the new numbering scheme and some stylistic changes were made.

**Form 104            For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders**

This Form replaces old form 4 and is renumbered to distinguish it from the versions to be used for non-individual Chapter 11 debtors and in Chapter 9 cases. Each creditor now has its own separate, numbered section and blanks are

provided to help the debtor calculate the value of the unsecured portion of a partially secured claim. Instructions are restated in less technical terms and examples of “insiders” are provided within the instructions.

## **Form 105                      Involuntary Petition Against an Individual**

Form 105 replaces the Official Form 5, Involuntary Petition. It’s been divided into four (4) parts likely to be more familiar to non-lawyers.

*Part 1:            Identify the Chapter of the Bankruptcy Code Under Which Petition is Filed*

This information is moved to the beginning of the form.

*Part 2:            Identify the Debtor.*

Information requested in this part is: name, aliases, social security number, business names, residence, mailing address and principal business address, nature of business, type of debt (consumer or business) and whether any other bankruptcy case is pending.

*Part 3:            Report About the Case.*

This part amends the question regarding venue and the choices for venue. Petitioners are required to answer whether there has been a transfer of any claims against the debtor by or to a petitioner. Information regarding the petitioner’s claim is moved to this part, and the portion regarding the amount of the claim is amended to ask about the amount of the claim that exceeds the value of the lien, if any.

*Part 4:            Request for Relief.*

This part amends the instructions to include a warning about making a false statement. It also now requires that each petitioner provide his mailing address, and if unrepresented, that unrepresented petitioner must provide his

phone number and email address. Any attorney for a petitioner must also now provide his email address.

### **Forms 106**

The Schedules A-J, Summary of Schedules and Declaration have been renumbered, starting at 106 and followed by the letter or name of the schedule to distinguish it from the version to be used by non-individuals.

#### **Form 106A/B      Schedule A/B: Property**

Form 106A/B not only consolidates the old forms 6A and 6B (Schedules A and B), but also changes the categories of property. Now, property is divided into seven (7) categories likely to be more familiar to non-lawyers. These seven categories are: real estate, vehicles, personal household items, financial assets, business-related property, farm- and commercial fishing-related property and a catch-all category. The new Form is divided into eight (8) parts, of which, the first seven correspond to the aforementioned categories.

*Part 1:      Describe Each Residence, Building, Land or Other Real Estate You Own or Have an Interest In*

This section asks the debtor to provide the location of the real property, the type of property (single-family home, duplex or multi-unit building, condominium or cooperative, manufactured or mobile home, land, investment property, timeshare, other), identify who has the interest in the property (Debtor 1 only, Debtor 2 only, Debtors 1 and 2 only, a debtor and another), the current value of entire property, the current value of portion owned and the nature of ownership, if known by the debtor.

*Part 2:      Describe Your Vehicles*

This section asks for the make, model, year and mileage of vehicles, who owns the vehicle and the value of entire vehicle and portion owned. It also asks for make, model and year for boats and other watercraft, planes, motor homes, ATVs and other recreational vehicles.

*Part 3: Describe Your Personal and Household Items*

This section updates categories and uses more common words. For example, "wearing apparel" is changed to "clothes," "furs" are added to the "clothes" category instead of the former "jewelry" category, firearms are now a separate category, and because another part pertains to farm related property, "non-farm animals" is a separate category.

*Part 4: Describe Your Financial Assets*

This section includes: cash; deposits of money; non-publicly traded stocks and interests in incorporated and unincorporated businesses; government and corporate bonds; retirement or pension accounts; security deposits and prepayments; annuities; interests in an education IRA, ABLE account, or qualified state tuition plan; trusts, equitable or future interest; patents, copyrights, trademarks, etc; licenses, franchises, general intangibles; money or property owed to the debtor such as tax refunds, family support; interest in insurance policies; interest in property due the debtor from someone who has died; other contingent or unliquidated claims of every nature, including counterclaims and rights to set off claims. Two new categories of "financial assets" were added: "Bonds, mutual funds, or publically traded stocks" and "Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment."

*Part 5: Describe Any Business-Related Property You Own or Have an Interest In*

This section includes: accounts receivable and commissions; office equipment, furnishings and supplies; machinery, fixtures, equipment, supplies used in the business and tools of the trade; inventory; interests in a partnership or joint venture; and customer lists and mailing lists.

*Part 6: Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In*

This section includes: farm animals, crops, and farm or fishing equipment and supplies.

*Part 7: Describe All Property You Own or Have an Interest in That You Did Not List Above*

This is the catch-all section for any other property not otherwise listed.

*Part 8: List the Totals of Each Part of this Form*

This section just asks the debtor to add up the total value of each of the aforementioned parts, and then total the values of the personal property (Parts 2 – 7).

## **Form 106C                      Schedule C: The Property You Claim as Exempt**

The Form technically has two parts, but Part 2 is just a continuation page. Like the old form, the new Form uses checkboxes to identify which set of exemptions are being used (state and federal nonbankruptcy or bankruptcy). To actually claim an exemption, the debtor is asked to briefly describe the property, disclose the current value of the portion owned, list amount of exemption claimed and specify the statutory basis for the exemption. With respect to the amount of exemption claimed, this Form uses checkboxes. The first box is checked if the debtor claims an exemption in a specific dollar amount. The

second box is checked if the debtor claims an exemption of “100% of fair market value, up to any applicable statutory limit.” This second box was added to the official form as a result of Schwab v. Reilly, 560 U.S. 770 (2010).

## **Form 106D            Schedule D: Creditors Who Have Claims Secured by Property**

This Form now has two parts.

### *Part 1:            List All Secured Claims*

Like the old form, the debtor is to name the secured creditor, value the claim, identify the collateral, value the collateral and calculate how much of the claim is unsecured, if any. Other information is provided by checkbox. For example, who owes the debt (Debtor 1 only, Debtor 2 only, Debtors 1 and 2 only, a debtor and another), and the nature of the lien (an agreement made by the debtor, statutory lien, judgment lien, other).

### *Part 2:            List Others to be Notified for a Debt That You Already Listed*

In this part, the debtor is to list any assignees or other parties that should be notified of the bankruptcy (such as a collection agency, servicer, attorney for secured creditor, etc.).

## **Form 106E/F            Schedule E/F: Creditors Who Have Unsecured Claims**

Form 106E/F consolidates the old forms 6E and 6F (Schedules E and F) and is separated into four (4) parts. Though both priority and nonpriority claims are reported on this new Form, they are separately grouped. The Form no longer asks for the “consideration for claim,” but does as the debtor to list the creditors in alphabetical order.

*Part 1: List All of Your PRIORITY Unsecured Claims*

This part includes checkboxes for identifying the type of priority debt: domestic support, taxes and certain other debts owed to the government, claims for death or personal injury while intoxicated and other. If the debtor chooses "other," he must specify the basis for the priority classification.

*Part 2: List All of Your NONPRIORITY Unsecured Claims*

This part includes checkboxes for identifying the type of nonpriority debt: student loans, obligations arising out of a separation agreement or divorce not listed as a priority claim, debts to pension or profit-sharing plans and other. If the debtor chooses "other," he must specify the basis of the claim.

*Part 3: List Others to be Notified for a Debt That You Already Listed*

In this part, the debtor is to list any assignees or other parties that should be notified of the bankruptcy (such as a collection agency or the attorney for creditor, etc.).

*Part 4: Add the Amount for Each Type of Unsecured Claim*

This part just asks the debtor to add up the total amount of priority unsecured claims and nonpriority unsecured claims, include the specific types of each.

**Form 106G                      Schedule G: Executory Contracts and Unexpired Leases**

This Form is simplified in that it now only requires the debtor to identify the name and address of the other party to the contract or lease and briefly state to what the contract or lease pertains.

**Form 106H                      Schedule H: Your Codebtors**

The Form asks the debtor to list codebtors and identify the form and line number of the shared debt so the entire creditor's name and address does not have to be relisted. The debtor is specifically asked if he lived in a community property state within the last eight (8) years with a spouse. Alaska has been removed from the list of community property states.

**Form 106I                      Schedule I: Your Income**

This Form has been in use for some time, but it's been renumbered and internal cross references have been updated.

**Form 106J                      Schedule J: Your Expenses**

This Form has been in use for some time, but it's been renumbered, internal cross references have been updated and it now includes a reference to the new Official Form 106J-2: Expenses for Separate Household of Debtor 2 for joint debtors that maintain separate households.

**Form 106J-2                  Schedule J-2: Expense for Separate Household of Debtor 2**

This Form is new and is to be used to disclose the monthly expenses of Debtor 2 when joint debtors maintain separate households.

**Form 106Sum                  Summary of Your Assets and Liability and Certain Statistical Information**

This Form has been reformatted and updated with cross-references to line numbers of specific schedules.

**Form 106Dec                  Declaration About an Individual Debtor's Schedules**

This Form deletes the Declaration and Signature of Bankruptcy Petition Preparer, and instead directs the debtor to complete and file the new Official

Form 119: Bankruptcy Petition Preparer's Notice, Declaration, and Signature, if a petition preparer assisted the debtor.

The Form deleted the Declaration Under Penalty of Perjury of Behalf of a Corporation or Partnership.

And like the signature block in the Official Form 101: Voluntary Petition, the debtor's declaration no longer has the phrase, "to the best of my knowledge, information, and belief."

### **Form 107                      Statement of Financial Affairs for Individuals Filing for Bankruptcy**

Form 107 replaces the Official Form 7, has twelve (12) parts, and has eliminated questions unrelated to individual debtors. The instructions have been amended to remove the instruction that a married debtor filing under chapter 12 or chapter 13 must include information applicable to their spouse even if the spouse did not file, unless the spouse are separated.

#### *Part 1:                      Give Details About Your Marital Status and Where You Lived Before*

The questions regarding the debtor's marital status and prior residences have been moved to the top of the Form.

#### *Part 2:                      Explain Sources of Your Income*

The questions regarding income (SOFA 1 and 2) have been consolidated and "wages, commissions, bonuses and tips" has been added as a category. Further, the option to report income on a fiscal year basis has been eliminated.

#### *Part 3:                      List Certain Payments You Made Before You Filed for Bankruptcy*

The Form provides a definition of consumer debt to assist the debtor in determining whether the preference threshold is \$600 or \$6,225. The Form also

provides a separate question regarding payments or transfers on a debt that benefited an insider.

*Part 4: Identify Legal Actions, Repossession, and Foreclosures*

The Form consolidates the questions regarding legal actions and assignments (SOFA 4, 5, 6 and 13). It now also requires that the debtor disclose any property levied within the year before filing and provide the last four digits of any account for any setoffs.

*Part 5: List Certain Gifts and Contributions*

The Form changes the threshold to \$600 and increases the look back period to two (2) years.

*Part 6: List Certain Losses*

The Form clarifies how to report insurance coverage for losses and specifically asks the debtor to include the amount that his insurance company has paid.

*Part 7: List Certain Payments or Transfers*

The Form consolidates SOFA 9 and 10. The question regarding transfers made to anyone consulted about bankruptcy now requires the debtor to provide an email or website address of the transferee. There is a separate question regarding any transfers made to anyone who promised to help deal with the debtor's creditors or make payments to the same (debt consolidation/settlement companies). Finally, the question regarding self-settled trusts adds an explanation that such trusts are commonly referred to as asset-protection devices.

*Part 8: List Certain Financial Accounts, Instruments, Safe Deposits Boxes, and Storage Units*

The Form consolidates SOFA 11 (closed financial accounts) and 12 (safe deposit boxes) and adds a question about property stored in a storage unit within one year of filing. The question regarding closed financial accounts specifically adds money market accounts to the list of examples.

*Part 9: Identify Property You Hold or Control for Someone Else*

This part has the debtor disclose any property he has borrowed, is storing for, or is holding in trust, for someone.

*Part 10: Give Details About Environmental Information*

This part has the debtor list the case title and nature of the case for any judicial or administrative proceeding under any environmental law and provide the status of the case.

*Part 11: Give Details About Your Business or Connections to Any Business*

This part has eliminated the business related questions relevant only to partnerships and corporations. The debtor is asked to indicate if he owed a business or had certain connections to a business within the four (4) years prior to filing (reduced from six (6)). The required information about the business is the same, but the debtor is only required to name the bookkeeper or accountant.

*Part 12: Sign Below*

The signature boxes for corporations, partnerships, and non-attorney bankruptcy petition preparers have been eliminated, and the debtor's declaration no longer has the phrase, "to the best of my knowledge, information, and belief."

**Form 108 Statement of Intention for Individuals Filing Under Chapter 7**

This Form has two (2) parts, and the instructions are more extensive in that they advise an individual Chapter 7 debtor that the Form must be completed

and filed within 30 days and that the debtor must deliver copies of the form to creditors and lessors listed on the Form.

*Part 1: List Your Creditors Who Have Secured Claims*

This part specifically refers to a “Reaffirmation Agreement” instead of asking the debtor if he wants to reaffirm the debt.

*Part 2: List Your Unexpired Personal Property Leases*

This part defines “unexpired lease” and explains that a debtor may assume an unexpired lease if the trustee does not assume it.

**Form 119 Bankruptcy Petition Preparer’s Notice, Declaration, and Signature**

This Form replaces old form 19 and certain signature boxes on old forms 1 and 7, and has two parts. If the debtor receives assistance from more than one preparer, Form 119 must be completed for each.

*Part 1: Notice to Debtor*

A bankruptcy petition preparer is required to give the debtor a copy of Form 119 and the debtor must sign it before the preparer can prepare any documents for filing or accept any compensation. The Notice warns the debtor that the petition preparer is not an attorney and cannot give legal advice. The debtor’s signature line includes a statement that the debtor acknowledges receipt of the Notice. The Form signed by the debtor must be filed with any document prepared.

*Part 2: Declaration and Signature of the Bankruptcy Petition Preparer*

The bankruptcy petition preparer must provide a firm name, if applicable, a contact phone number and identify which documents the preparer prepared

from a list of documents. An officer, principal, responsible person, or partner of a bankruptcy petition preparer may now sign the declaration.

**Form 121                      Statement About Your Social Security Number**

This Form is divided into three (3) parts.

*Part 1:            Tell the Court About Yourself and Your Spouse if Your Spouse is Filing With You*

The debtor's name is moved from the caption to the body of the Form.

*Part 2:            Tell the Court About all of Your Social Security or Federal Individual Taxpayer Identification Numbers*

The reference to the debtor's Employer Tax-Identification number is eliminated.

*Part 3:            Sign Below*

The debtor's declaration no longer has the phrase, "to the best of my knowledge, information, and belief."

**Forms 122A-C**

These are the Means Test-related forms.

- |                        |   |
|------------------------|---|
| <b>Form 122A-1</b>     | <b>Chapter 7 Statement of Your Current Monthly Income</b>                                       |
| <b>Form 122A-1Supp</b> | <b>Statement of Exemption from Presumption of Abuse Under § 707(b)(2)</b>                       |
| <b>Form 122A-2</b>     | <b>Chapter 7 Means Test Calculation</b>   |
| <b>Form 122B</b>       | <b>Chapter 11 Statement of Your Current Monthly Income</b>                                      |
| <b>Form 122C-1</b>     | <b>Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period</b> |
| <b>Form 122C-2</b>     | <b>Chapter 13 Calculation of Your Disposable Income</b>   |

These Forms underwent significant changes in 2014 and have been updated to comport with the new numbering scheme. However, there have been a few minor changes to certain Forms. Specifically, a deduction (on line 26) for contributions to qualified ABLE accounts was added to Forms 122A-2 and 122C-2. Forms 122A-1, 122B and 122C-1 now have a workspace column for Debtor 2 at questions 5 and 6 (net income from business, farm and rentals). Form 122B no longer provides for the exclusion of certain income of a debtor's non-filing spouse since the income is not required to be reported.

## **NON-INDIVIDUAL FORMS**

**Form 201**                    **Voluntary Petition for Non-Individuals Filing for Bankruptcy**

**Form 201A**                **Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11**

Form 201 replaces the Official Form 1 Voluntary Petition for non-individual debtors, so all questions pertaining only to individuals have been removed. References to Exhibits B, C and D have been eliminated, and Exhibit A (regarding debtors required to file periodic reports with the SEC) has been replaced with Form 201A *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11*.

**Form 202**                    **Declaration Under Penalty of Perjury for Non-Individual Debtors**

Form 202 consolidates the old form 2 and a portion of old form 6. Language regarding bankruptcy fraud has been added, and the phrase, "to the best of my information and belief" has been deleted to conform to the language of 28 U.S.C. § 1746. The Form includes a statement that the person signing the declaration has examined the information in the documents subject to the declaration and has "a reasonable belief that the information is true and correct," and requires the signor to disclose his position or relationship to the debtor.

**Form 204**                    **Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders**

This Form replaces old form 4 for non-individual debtors. Examples of "insiders" are provided within the instructions. The new Form is similar in style to the old form, but the second column now only requires the "name, telephone

number and email address of creditor contact.” The fourth column no longer has “subject to setoff” as an option. And, the fifth column is broken down to three sub-columns: Total claim, if partially secured; Deduction for value of collateral or setoff; and Unsecured claim. Finally, the signature line has been deleted.

## **Form 205                      Involuntary Petition Against a Non-Individual**

Form 105 replaces the Official Form 5, Involuntary Petition for non-individual debtors and has been divided into four (4) parts.

*Part 1:            Identify the Chapter of the Bankruptcy Code Under Which Petition is Filed*

This information is moved to the beginning of the Form.

*Part 2:            Identify the Debtor*

The instructions for this Form pertaining to individual debtors have been deleted, and there is now a place to list the debtor’s website.

*Part 3:            Report About the Case*

This part amends the question regarding venue and the choices for venue. Petitioners are required to answer whether there has been a transfer of any claims against the debtor by or to a petitioner. Information regarding the petitioner’s claim is moved to this part, and the portion regarding the amount of the claim is amended to ask about the amount of the claim that exceeds the value of the lien, if any.

*Part 4:            Request for Relief*

This part amends the instructions to include a warning about making a false statement. It now requires that each petitioner provide his mailing address

and a petitioner's attorney must provide an email address, bar number and state of bar membership. A statement has been added that each petitioner, or the petitioner's representative, has review the information in the petition and has a "reasonable belief that the information is true and correct."

### **Forms 206**

The Schedules A, B, D – H and Summary of Schedules have been renumbered, starting at 206 and followed by the letter or name of the schedule to distinguish it from the version to be used by individuals.

#### **Form 206A/B      Schedule A/B: Property**

Form 206A/B not only consolidates the old forms 6A and 6B (Schedules A and B), but also changes the categories of property. Now, property is divided into eleven (11) categories. The new Form is divided into twelve (12) parts, of which, the first eleven correspond to each of the new categories.

*Part 1:      Cash and cash equivalents*

This part is for cash and cash equivalents only, all other financial assets are moved to Part 4: Investments.

*Part 2:      Deposits and prepayments*

This part includes security or utility deposits and prepayments.

*Part 3:      Accounts receivable*

This part divides accounts receivable into two (2) categories by age: less than 90 days old and more than 90 days old.

*Part 4: Investments*

This part includes: mutual funds or publically traded stock; non-publicly traded stocks and interests in incorporated and unincorporated businesses; and government and corporate bonds and negotiable or non-negotiable instruments.

*Part 5: Inventory, excluding agriculture assets*

This part has been amended to segregate agricultural and non-agricultural assets. A debtor must include the last date of physical inventory, the net book value of debtor's interest, the valuation method used for current value and the current value of debtor's interest. It also requires the debtor to indicate whether the property is listed is perishable, whether any of the property was purchased within 20 days pre-Petition and whether the property was appraised by a professional within the year prior to filing.

*Part 6: Farming- and Fishing-Related Assets (other than titled motor vehicles and land)*

A debtor must disclose the net book value of debtor's interest, the valuation method used for current value and the current value of debtor's interest. This section also requires that the debtor indicate whether the property is listed is perishable, whether there is a depreciation schedule available for any property listed, whether any of the property was purchased within 20 days pre-Petition and whether the property was appraised by a professional within the year prior to filing.

*Part 7: Office furniture, fixtures, and equipment; and collectibles*

This part has been amended to combine several categories of assets and require more detail. A debtor must disclose the net book value of debtor's interest, the valuation method used for current value, the current value of

debtor's interest, whether there is a depreciation schedule available for any property listed and whether the property was appraised by a professional within the year prior to filing.

*Part 8: Machinery, Equipment, and vehicles*

This part has been amended to combine several categories of assets and require more detail. A debtor must disclose the net book value of debtor's interest, the valuation method used for current value, the current value of debtor's interest, whether there is a depreciation schedule available for any property listed and whether the property was appraised by a professional within the year prior to filing.

*Part 9: Real property*

This part asks the debtor to provide a description and the location of the real property. A debtor must disclose the net book value of debtor's interest, the valuation method used for current value, whether there is a depreciation schedule available for any property listed and whether the property was appraised by a professional within the year prior to filing.

*Part 10: Intangibles and intellectual property*

This section has been amended to combine several categories of assets and require more detail. A debtor must disclose the net book value of debtor's interest, the valuation method used for current value, whether there is an amortization or similar schedule available for any property listed and whether the property was appraised by a professional within the year prior to filing.

*Part 11: All other assets*

This section includes a new category for notes receivable, it combined tax refunds and net operating losses into a single question, it deletes the requirement

to name insurance companies for interest in insurance policies listed, expands the questions regarding contingent and unliquidated claims and includes examples of any other property. It also asks if the property listed was appraised by a professional within the one year prior to filing.

*Part 12: Summary*

This section just asks the debtor to add up the total value of each of the aforementioned parts.

**Form 206D Schedule D: Creditors Who Have Claims Secured by Property**

This Form now has three parts.

*Part 1: List All Secured Claims*

Like the previous form, the debtor is to name the secured creditor, value the claim, identify the collateral and value the collateral. Debtors are instructed to list claims of the same secured creditors separately, indicate if more than one creditor has a security interest in the same collateral and identify each creditor's priority interest and indicate if the secured creditor is an insider or related party.

*Part 2: List Others to be Notified for a Debt Already Listed in Part 1*

In this part, the debtor is to list any assignees or other parties that should be notified of the bankruptcy (such as a collection agency, servicer, attorney for secured creditor, etc.).

*Part 3: Total Amounts of Claims and the Unsecured Portion of Claims*

This part just has the debtor total its claims.

**Form 206E/F Schedule E/F: Creditors Who Have Unsecured Claims**

Form 206E/F consolidates the old forms 6E and 6F (Schedules E and F) and is separated into four (4) parts. Though both priority and nonpriority claims

are reported on this consolidated Form, they are separately grouped. The Form now requires the debtor to list the other part to an executory contract or unexpired lease on this schedule and on Forms 206 A/B and G.

*Part 1: List All of Your PRIORITY Unsecured Claims*

This section no longer asks the debtor to list the amount not entitled to priority. It does ask the debtor to disclose the statutory basis for the priority status and whether the priority debt is subject to setoff.

*Part 2: List All of Your NONPRIORITY Unsecured Claims*

The instructions for this section have been shortened and the debtor must disclose whether the claim is subject to setoff.

*Part 3: List Others to be Notified About Unsecured Claims*

In this part, the debtor is to list any assignees or other parties that should be notified of the bankruptcy (such as a collection agency or the attorney for creditor, etc.)

*Part 4: Total Amounts of the Priority and Nonpriority Unsecured Claims*

This section just asks the debtor to add up the total amount of priority unsecured claims and nonpriority unsecured claims.

**Form 206G                      Schedule G: Executory Contracts and Unexpired Leases**

This Form now requires that the debtor state the remaining term for any contract or lease listed.

**Form 206H                      Schedule H: Codebtors**

The Form asks the debtor to list codebtors and identify the form and line number of the shared debt so the entire creditor's name and address does not have to be relisted.

## **Form 206Sum      Summary of Assets and Liabilities for Non-Individuals**

This Form has been reformatted and updated with cross-references to line numbers of specific schedules.

## **Form 207              Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy**

Form 207 replaces the Official Form 7, has fourteen (14) parts, grouping similar questions together and has eliminated questions related to individual debtors.

### *Part 1:            Income*

The questions regarding income (SOFA 1 and 2) have been consolidated.

### *Part 2:            List Certain Transfers Made Before Filing for Bankruptcy*

SOFA 3, 5 and 13 have been consolidated and all information related to individuals has been eliminated. Instructions have been amended to include expense reimbursements and exclude regular employee compensation. The question regarding setoffs includes a revised definition and now requires that the debtor provide a description of the creditor's actions.

### *Part 3:            Legal Actions or Assignments*

The Form consolidates the questions regarding legal actions and assignments (SOFA 4 and 6).

### *Part 4:            Certain Gifts and Charitable Contributions*

The Form changes the threshold to \$1,000 and increases the look back period to two (2) years.

### *Part 5:            Certain Losses*

The Form expands the types of payments for losses and instruction has been added to list unpaid claims on Form 206A/B. The reference to gambling has been removed.

*Part 6: Certain Payments or Transfers*

The Form consolidates SOFA 9 and 10. Instructions related to individuals have been removed, and instructions have been added to include payments related to restructuring and the email or website of the person who received the money or transfer is required.

*Part 7: Previous Locations*

All previous addresses used by the debtor in the three (3) years before filing are required. All references to individuals have been removed.

*Part 8: Health Care Bankruptcies*

This part requires additional information if the debtor is primarily engaged in providing health care services.

*Part 9: Personally Identifiable Information*

This part is new and includes questions about pension and profit sharing plans and adds a question about whether the debtor collects and retains personally identifiable information of customers. There are also questions about whether the debtor is the plan administrator of any pension or profit sharing plan if any such plan is terminated.

*Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units*

Money market accounts have been added as an example of financial accounts. The reference to safe deposit boxes has been deleted and a question has been added about whether property has been kept in a storage unit or warehouse.

*Part 11: Property the Debtor Holds or Control That the Debtor Does Not Own*

The instructions have been changed to include property borrowed from, being stored for, or held in trust and to exclude leased or rented property.

*Part 12: Details About Environmental Information*

The definitions of "Environmental law," "Site" and "Hazardous materials" have been changed and an instruction to report all notices, releases and proceedings known, regardless of when they occurred, has been added.

*Part 13: Details About the Debtor's Business or Connections to Any Business*

Questions regarding various business issues have been consolidated and references to individuals have been eliminated. The five-percent ownership limitation has been eliminated and the questions regarding auditing or preparation of financial records have been revised to include compiling and reviewing the debtor's books of account and records. The instruction regarding disclosure of withdrawals from a partnership or distribution by a corporation has been changed to add salary and other compensation.

*Part 14: Signature and Declaration*

The declaration under penalty of perjury has been revised to conform to 28 U.S.C. § 1746. A statement has been added that the individual signing on behalf of the debtor has reviewed the information in the Statement of Financial Affairs and any attachments, and has "a reasonable belief that the information is true and correct."