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Lou Jones Seminar

## **DIVORCE & MARITAL PROPERTY ISSUES IN BANKRUPTCY**

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- I. The "Means Test" in non-filing spouse ("NFS") and joint-debtor-living-separately cases.
  - A. Debtor and NFS live together on date of debtor's bankruptcy petition.
    1. The income of the NFS must be included in the calculation of the debtor's Total Current Monthly Income<sup>1</sup> (line 12 of B22A). 11 U.S.C. § 707(b)(7)(A).
      - a. Income of NFS affects whether debtor is above or below the applicable median income.
      - b. Accordingly, income of NFS affects the commitment period in Chapter 13 cases.
    2. In short, the debtor's NFS's income is included in the threshold figure that determines whether the debtor is "above median" and is therefore subjected to the second stage of the means test, which determines the debtors Current Monthly Income ("CMI").
    3. The means test provides a deduction from the debtor's CMI for income of the NFS that is not contributed "on a regular basis for the household expenses of the debtor or the debtor's dependents." 11 U.S.C. 101(10A)(B).
      - a. That portion of the NFS's income that the NFS does not contribute on a regular basis to household expenses are termed "marital adjustments" and are deducted on line 17 of form B22A.
      - b. The term "household expenses" is not defined in the Bankruptcy Code. Following are examples of expense items that may or may

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<sup>1</sup> Only applies in cases involving debtors whose debts are primarily consumer debts. Cases involving primarily non-consumer debt do not require the debtor to complete the "Means Test."

not constitute "household expenses" for the purposes of computing CMI.

- (1) NFS pays tuition for a child that is a dependent of the debtor;
- (2) NFS pays tuition for a child that is not a dependent of the debtor (ex. NFS's adult child from a previous relationship);
- (3) NFS's contributions to his/her retirement plan(s);
- (4) NFS's contributions to maintain rental property jointly owned with debtor;
- (5) NFS's contributions to NFS's business venture(s);
  - (a) See *In Re Boatright*, 414 B.R. 526 (Bankr. W.D. Mo. 2009). [Debtor's annual income was \$30,000 and income of her NFS was \$180,000. NFS historically paid mortgage payment and utilities and debtor paid all other household expenses. NFS spent considerable amount of his income on a business venture to develop and promote a musician; a business venture that had operated at a loss since its inception. Debtor claimed marital adjustment for all of NFS's income except the amounts contributed by NFS to mortgage and utilities. Court overruled trustee's motion to dismiss for abuse, holding that the debtor passed the mathematical means test.]
- (6) NFS's country club / athletic club membership;
- (7) NFS's payments on life insurance premiums;
- (8) NFS's expenses for treating a medical condition of the NFS or of a child or elderly parent who is not a dependent of the debtor;
- (9) Mortgage payment on primary residence owned solely by NFS;
  - i) Marital adjustment allowed - *Sturm, supra*;

*In re Shahan*, 367 B.R. 732 (Bankr. D. Kan. 2007).

- ii) Marital adjustment not allowed - *In re Trimarchi*, 421 B.R. 914 (Bankr. N.D. Ill. 2010); *In re Vollen*, 426 B.R. 359 (Bankr. D. Kan. 2010).

(10) Note: regardless of which way the court rules on allowance of the marital adjustment in CMI, the court may find the case an abuse under the “totality of the circumstances,” under 707(b)(3). See *In re Kulakowski*, 2011 Bankr. LEXIS 3284 (Bankr. M.D. Fla. 2011).

- c. A logical means of determining the extent to which the NFS contributes income to the household expenses of the debtor and the debtor’s dependents is to first determine the extent of the debtor’s and the debtor’s dependent’s monthly household expenses. Subtract from that figure the portion the debtor contributes to that monthly expense and the balance is the maximum amount the NFS could contribute to the household expenses of the debtor and the debtor’s dependents, therefore the maximum amount of NFS’s income included in CMI.
- d. Trustee bears the burden of proving how much, if any, of the NFS’s income must be included in CMI. *In re Roll*, 400 B.R. 674 (Bankr. W.D. Wis. 2008); *Sturm v. U.S. Trustee*, 455 B.R. 130 (N.D. Ohio 2011).

B. Joint debtors are living separately on date of bankruptcy petition (typical in imminent and early-stage divorce situations).

- 1. The income of both spouses must be included in the calculation of the debtors’ Total Current Monthly Income (line 12 of B22A). 11 U.S.C. § 707(b)(7)(A).
- 2. Above-median joint debtors living separately are not allowed a “marital adjustment” from CMI because the marital deduction from CMI is only allowed when the income sought to be excluded is attributable to a non-debtor.
- 3. Joint debtors living separately are required to complete a single, joint means test. *Harman v. Fink*, 435 B.R. 596 (8<sup>th</sup> Cir BAP. 2010).

4. Joint debtors living separately likely have much higher actual expenses than those allowed as deductions in the means test because the means test does not allow each debtor to claim the IRS National Standard expenses for health care, housing and utilities, transportation, etc...
5. *In re Crego*, 387 B.R. 225 (Bankr. E.D. Wis. 2008) (Judge Kelley), stands for the proposition that joint debtors living separately may be permitted to claim some of the duplicate expenses of living apart as a "special circumstance," if the evidence supports the additional expenses and if there is no reasonable alternative to the debtors living separately.
  - a. In addition to claiming the additional expenses of living separately as a special circumstance in the means test, the debtors in *Crego* demonstrated their additional expenses by filing affidavits.
  - b. Court in *Crego* did not give a blank check to joint debtors living separately who want to claim additional expenses as a special circumstance.
    - (1) Debtors must have no reasonable alternative to living separately;
    - (2) Expenses claimed as special circumstance must be reasonable;
      - (a) To determine reasonable rent expense, Judge Kelley compared joint debtor's rent to National Standard and Local Milwaukee Standards for a household size of one and found that debtors should be limited to an additional rent expense not greater than the \$1,610.00 National and Local Standards allowance.

## II. Effect of marital property agreements and divorce agreements/decrees in bankruptcy.

### A. Property Classification Agreements in Bankruptcy:

1. Wisconsin property classification agreements ("PCAs") are governed primarily by Wis. Stats. §§ 766.17, 766.31, 766.58, 766.585, 766.588, 766.589, and 766.59.
  - a. Caution: Wisconsin PCAs have several technical requirements that are prerequisites to the effectiveness of the agreement.

- (1) Ex.) Most Wisconsin PCAs must conform to a statutory form and are not effective until/unless notarized.
2. Property rights of debtors and debtor's spouses in bankruptcy are determined by state law. **Butner v. United States**, 440 U.S. 48, 99 S. Ct. 914, 59 L. Ed. 2d 136 (1979).
3. Accordingly, properly executed Wisconsin PCAs between spouses are generally enforceable in bankruptcy and the trustee is bound by the classification of marital vs. individual property contained in a valid PCA. **In re Grady**, 128 B.R. 462 (Bankr. E.D. Wis. 1991) (Judge Clevert); **In Re Geise**, 132 B.R. 908 (Bankr. E.D. Wis. 1991) (Judge Clevert).
4. If the PCA is binding on the spouses, it may be binding on the trustee regardless of whether the spouses ever provided a copy of the PCA to any of their creditors.
  - a. None of the various Wisconsin PCA statutes require notice of the PCA to creditors as a prerequisite to the classification of property as marital or individual.
  - b. Failure to provide a creditor notice of the PCA prior to incurring a debt affects the extent of property available to pay that creditor's claim, but does not affect the classification of the property as marital or individual. *See* Wis. Stats. § 766.55(4m). Stated differently, a creditor is unaffected by the classification of property as marital or individual if that creditor did not have notice of the PCA prior to extending credit.
  - c. Similarly, the divorce decree determines each spouse's property interest in formerly marital property, but the division of property in divorce does not affect the property available to pay a pre-divorce creditor's claim. **Sokaogon Gaming Enterprise v. Curda-Derrickson**, 2003 WI App 167, 266 Wis. 2d 453, 688 N.W.2d 736 (Wis. Ct. App. 2003).
5. PCAs are not immune from a bankruptcy trustee's challenges that property interests transferred in the property classification agreement constitute a fraudulent transfer. *See e.g. U.S. vs. Arthur*, 582 F.3d 713 (7<sup>th</sup> Cir. 2009) (Arthur is actually a criminal case brought against the debtor and his NFS for bankruptcy fraud in connection with their attempts to hide the debtor's assets by operation of property classification agreements entered into in contemplation of bankruptcy. Debtor sentenced to 4.5 years; debtor's NFS

sentenced to 1 year).

a. Factors making a property classification agreement susceptible to challenge by a bankruptcy trustee as a fraudulent transfer:

- (1) Property classification agreements to not surface until previously undisclosed assets are discovered by trustee or creditors;
- (2) Property classification agreement dated much earlier than the date of actual transfer of property referred to in the agreement;
  - (a) Date of actual property transfer is in closer proximity to a creditor's collection efforts than to the purported date of execution of the agreement;
- (3) Property classification agreement is not publically filed until a date long after the execution of the agreement;
- (4) Property classified as the non-debtor spouse's individual property is never delivered to the custody and control of non-debtor spouse;
- (5) Non-debtor spouse never exercises management or control over property classified in the property classification agreement as the non-debtor's individual property. *Id.*

6. Although the classification of property and terms included in the PCA may be binding on H&W and on the bankruptcy trustee, the negative impact of the PCA on the creditors in bankruptcy may affect debtor's ability to get a plan confirmed in Chapter 13.

a. Ex.) Debtor filed Chapter 13 and disclosed a PCA previously entered into with NFS which provided that NFS not responsible for household expenses. Debtor argued that none of NFS's income can be included in debtor's "projected disposable monthly income" because NFS is not required by the PCA to pay the household expenses of debtor. Court refused confirmation of Plan on grounds that plan was not proposed in good faith (11 U.S.C. § 1325(a)(3)).

B. Divorce Decrees/Marital Settlement Agreements ("MSAs") in bankruptcy.

1. Divorce decrees in Wisconsin typically incorporate the terms of the MSA, which is the document that identifies the divorcing parties respective property interests in the marital estate.
2. The terms of an MSA are subject to the trustee's avoidance powers (most commonly arising under 11 U.S.C. §§ 544 [trustee as hypothetical judgment lien creditor], 547 [preferences], 548 [fraudulent transfers], and 549 [post-petition transfers]).
  - a. MSA as fraudulent transfer (under state fraudulent transfer law): *In re Fordu*, 201 F3d 693 (6<sup>th</sup> Cir. 1999). W wins lottery (\$388,888). Shortly thereafter H&W decide to get divorced. With respect to the major property, divorce decree provided that W gets (1) lottery winnings (payable in \$20,000 annual installments over 25 years), which both parties apparently mistakenly assumed were her individual property under Ohio state law, and (2) the marital residence. H gets his interest in a restaurant venture that he was about to undertake. 2 years after divorce decree entered, H files Chapter 7.
    - (1) Trustee files adversary under § 544 to recover lottery winnings awarded to wife as fraudulent transfer ("F.T.") under state F.T. recovery stat.
    - (2) W defends, pointing to divorce decree which stated property division was "fair, just, and equitable" which bars the trustee from challenging the division of property as a F.T.
      - (a) W argues issue preclusion and claim preclusion bar the trustee's F.T. claims in bankruptcy court.
      - (b) 6<sup>th</sup> Cir. held:
        - i) issue preclusion precludes the relitigation of an issue that has been actually and necessarily litigated and determined in a prior action and requires that the parties to the "relitigation" were in privity with the parties to the original litigation.
          - a) Whether the debtor received "reasonably equivalent value" in

exchange for relinquishing his rights in the lottery proceeds was never *actually litigated* in the divorce proceeding, but was merely contained in a recitation in the divorce decree.

b) the trustee in bankruptcy not only stands in the shoes of the debtor, s/he also represents the interests of creditors; therefore, the trustee is not in privity with the debtor with respect to his “relitigation” of the terms of the divorce decree.

ii) Claim preclusion only applies when a valid, final judgment was rendered upon the merits, an identity of the parties or their privies in the prior and current litigation exists, and the claim sought to be precluded could have been raised in the prior litigation.

a) the trustee in bankruptcy not only stands in the shoes of the debtor, s/he also represents the interests of creditors; therefore, the trustee is not in privity with the debtor with respect to the prior litigation.

b) the trustee’s F.T. claim could not have been raised in the divorce action.

iii) W’s Lottery winnings were marital property and not the individual property of W under Ohio state law.

iv) W is liable to trustee for receipt of F.T. from debtor with respect to ½ of the value of the lottery winnings.

b. MSA as preferential transfer (11 U.S.C. § 547): *In re Paschall*, 403 B.R. 366 (Bankr. E.D. Vir. 2009). Prior to marriage, W has



lots of money. H&W get married. Soon after marriage, W sells California house and receives \$586,000. W buys a house in Virginia with her own money, where H&W intend to reside together, and titles it in her own name. Shortly after purchase, W deeds property to H&W. 2 years later, H&W enter into agreement providing H will deed house back to W and W will pay a specified sum to H in return. W pays H, but H does not deed house to W immediately. W files for divorce several months later. H deeds house to W while still married pursuant to the terms of the MSA, then files a Chapter 7 within 1 year of deeding the house to W.

(1) Bankruptcy court held:

- (a) Upon W's payment to H for his share of the value of the house, H owed a "debt" to W in the form of his obligation to deed the house to her.
- (b) When H did eventually deed the house to W, H&W were still married; therefore W was an insider of H at the time of the transfer.
- (c) H's transfer of his property interest in the house was on account of an antecedent debt that arose at the time W paid H for his share of the house.
- (d) H's transfer of his interest in the house to W in the divorce was a preferential transfer to an insider, recoverable by the trustee under § 547.
- (e) W had no defenses to the preference claim.

III. Exemptions available to debtors in NFS cases.

- A. Only an individual debtor is entitled to claim exemptions in a bankruptcy case. 11 U.S.C. § 522(b). Accordingly, a NFS is not entitled to claim exemptions in the bankruptcy case and the debtor cannot claim an exemption on behalf of his NFS.
- B. All property of spouses in Wisconsin is presumed to be marital property and each spouse holds a "present undivided ½ interest in each item of marital property." Wis. Stats. § 766.31.
  - 1. The unique nature of Wisconsin's marital property law granting each party a "present ½ undivided interest in each item of marital property," has led

bankruptcy courts in Wisconsin to hold that where property of the estate cannot practically be divided (ex. house, car, household goods, etc...), the debtor is entitled to exempt all of the equity in the asset, up to the statutory exemption limit for one debtor. *See e.g., In re Griffith*, 449 B.R. 909 (Bankr. E.D. Wis.) (Judge Utschig); *In re Xiong*, No. 05-43121, 2006 WL 1277129, 2006 Bankr. LEXIS 717 (Bankr. E.D. Wis. 2006) (Judge Kelley).

- a. However, in cases in which property of the estate is easily divisible, the debtor may be limited to exempting only the debtor's interest in equity in the property. *See, In re Page*, 171 B.R. 349 (Bankr. E.D. Wis. 1994) (Judge Martin) (case dealt with debtor's ability to avoid a judgment lien under § 522(f) on property that essentially consisted of cash. Judge Martin limited lien avoidance to debtor's ½ of the cash, which he held is all the debtor could exempt.)

IV. Forum for determinations of dischargeability of ex-spouse claims arising under §§ 523(a)(5) [domestic support obligations ("DSOs")] and 523(a)(15) [property division in divorce].

- A. Debts in the nature of property division are generally dischargeable in Chapter 13, whereas debts in the nature of alimony, maintenance, and support ("DSOs"), are not. 11 U.S.C. § 523(a)(5) & (15) and 11 U.S.C. § 1328(a)(2).
  1. Accordingly, it is not uncommon for a Chapter 13 debtor to challenge the claim of an ex-spouse as being in the nature of property division as opposed to a DSO.
- B. Concurrent Jurisdiction of bankruptcy and state courts: Congress granted bankruptcy courts jurisdiction, but not exclusive jurisdiction, over civil proceedings "arising under Title 11" or "arising in or related to a case under Title 11." 28 U.S.C. § 1334(b) and 28 U.S.C. § 157.
- C. Core vs. Non-Core: 28 U.S.C. § 157(b) defines what constitutes a "core" proceeding in which the bankruptcy court has jurisdiction to enter a final order<sup>2</sup>.

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<sup>2</sup> Caution: The US Supreme Court recently held that Congress's grant of jurisdiction to the bankruptcy courts to enter final orders on certain counterclaims of the bankruptcy estate was unconstitutional, regardless of the fact that counterclaims are identified as a "core" matter under § 157(b). *Stern v. Marshall* 131 S. Ct. 2594, 180 L. Ed. 2d 475 (2011). 7<sup>th</sup> Cir. just issued a decision citing Stern and holding bankruptcy court lacked jurisdiction to enter final order in a similar case to Stern in which the bankruptcy estate had brought an adversary complaint alleging primarily State law claims against a creditor. *Ortiz v. Aurora Health Care, Inc.*, No. 10-3466 (7<sup>th</sup> Cir. 2011).

- D. Permissive Abstention: 28 U.S.C. § 1334(c)(1) allows the bankruptcy judge to abstain from deciding non-core *and* core proceedings, in favor of another court of competent jurisdiction. *In re Mitchell*, 132 B.R. 585 (Bankr. S.D. Ind 1990) (citing *In re Republic Reader's Service, Inc.*, 81 B.R. 442, 426 (Bankr. S.D. Tex. 1987).
1. "... [N]othing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11." 28 U.S.C. § 1334(c)(1).
- E. Accordingly, simply because a bankruptcy court has jurisdiction to hear a civil proceeding arising in a bankruptcy case, does not mean it must.
- F. Determinations of whether a debt is in the nature of (1) alimony, maintenance, or support (523(a)(5)), or (2) property division/debt allocation, are "core" matters under 28 U.S.C. § 157(b)(2)(B) and (I) can be determined by either the bankruptcy or family court due to concurrent jurisdiction. *In re Mitchell*, 132 B.R. 585 (Bankr. S.D. Ind 1990); *In re Franklin*, 179 B.R. 913, 923-924 (Bankr. E.D. Cal. 1995)<sup>3</sup>; *In re Bennett*, 376 B.R. 918 (Bankr. W.D. Wis. 2007) (Judge Martin).
1. In *Mitchell*, the debtor's ex-spouse commenced family court proceedings to hold debtor in contempt for debtor's failure to comply with the divorce decree post-discharge. The bankruptcy court said the State court was in a better position to determine whether the terms of the divorce decree were in the nature of support or were debt allocation and determination of that issue would determine whether the ex-spouse had violated the discharge injunction. Bankruptcy court abstained from deciding the nature of the ex-spouse's claim.
  2. In *Bennett*, Judge Martin abstained from hearing an adversary brought by a Chapter 13 debtor to compel her ex-husband to comply with the terms of a MSA entered in a prior divorce, in favor of the State court deciding the matters.
- G. Bankruptcy courts are generally not required to abstain from determining whether a debt is a 523(a)(5) vs. a 523(a)(15) obligation.

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<sup>3</sup> *Franklin* stands for the proposition that *all* non-dischargeability actions under 11 U.S.C. § 523 are subject to concurrent jurisdiction with State courts.

1. In cases involving otherwise dischargeable property division claims of ex-spouses under 523(a)(15), Wisconsin bankruptcy courts have recognized state “equitable lien” rights on the part of a spouse owed property division to avoid unjust enrichment; the “equitable lien” constituting a secured claim on the property subject to the property division in divorce (usually a house). *In re Bailey*, 20 B.R. 906 (Bankr. W.D. Wis. 1982) (Judge Martin); and *In re Sanderfoot*, 500 U.S. 291, 111 S. Ct. 1825, 114 L. Ed. 2d 337 (1991) (originally a Judge McGarity decision).

- a. Ex) H & W get divorced. Divorce decree says H gets house and says W will deed her interest in house to H and H will pay W the value of her interest in the house. H doesn’t pay W her property division payment, then files a Chapter 13 to discharge the property division payment owed to wife and to avoid the lien of ex-spouse on the property.

H. State courts do not have concurrent jurisdiction to modify a discharge order. *In re Hamilton*, 540 F. 3d 367 (6<sup>th</sup> Cir. 2008).

1. Facts:

- a. Debtor divorced in 1992. Divorce decree was silent on a \$14,000 obligation that H & W had assumed H would pay, and which was guaranteed by H’s father.
- b. H did not pay the \$14,000 debt, but H’s father did.
- c. In 1995, H’s father sued W for the \$14,000 payment he made, allegedly on W’s behalf.
- d. Debtor filed bankruptcy 1996, while suit between H’s father and W was pending.
- e. W challenges dischargeability of her claim in H’s bankruptcy case, but bankruptcy court determines W’s claims are dischargeable.
- f. H gets discharge in 1998.
- g. Post-discharge, W brings 3<sup>rd</sup> party complaint against H, seeking indemnification from debtor on the \$14,000 note. In 2001, State court ordered H to indemnify W for any amount W has to pay to H’s father.

- h. H fails to assert “discharge in bankruptcy” as a defense until after entry of judgment against him. State court determines “discharge in bankruptcy” is an affirmative defense and was waived.
  - i. In 2005, H files adversary in bankruptcy court to permanently enjoin W from taking collection actions against H arising from their divorce.
  - j. W asks bankruptcy court to apply *Rooker-Feldman* doctrine, and abstain because, under *Rooker-Feldman*, the bankruptcy court cannot sit as an appellate court over the state trial court.
  - k. Case gets up to the 6<sup>th</sup> Cir., which construes the state court judgment against H as a modification of the discharge, which is not a matter subject to concurrent jurisdiction, but is a matter within the exclusive jurisdiction of the bankruptcy court/district court under.
2. 6<sup>th</sup> Cir. held: State court judgments that modify the discharge are void, not voidable.
- I. State courts may be permitted to modify a divorce decree to increase an award of maintenance based on the “changed circumstances” of a debtor discharging a property division payment to the ex-spouse. *In re Siragusa*, 27 F. 3d 406 (6<sup>th</sup> Cir. 1994); *In re Reak*, 92 B.R. 804, 807 (Bankr. E.D. Wis. 1988) (Judge Shapiro).
- 1. The 6<sup>th</sup> Cir. in *Siragusa* stated that the post-discharge modification of maintenance merely took into consideration the “change in circumstances” regarding the ex-spouse’s need for support and the debtor’s ability to pay, and did not violate the discharge injunction contained in 11 U.S.C. § 524.

In re \_\_\_\_\_  
Debtor(s)Case Number: \_\_\_\_\_  
(If known)According to the information required to be entered on this statement  
(check one box as directed in Part I, III, or VI of this statement):

- ☐ The presumption arises.  
☐ The presumption does not arise.  
☐ The presumption is temporarily inapplicable.

## CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual chapter 7 debtor, whether or not filing jointly. Unless the exclusion in Line 1C applies, joint debtors may complete a single statement. If the exclusion in Line 1C applies, each joint filer must complete a separate statement.

### Part I. MILITARY AND NON-CONSUMER DEBTORS

<b>1A</b>	<p><b>Disabled Veterans.</b> If you are a disabled veteran described in the Declaration in this Part IA, (1) check the box at the beginning of the Declaration, (2) check the box for "The presumption does not arise" at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> <b>Declaration of Disabled Veteran.</b> By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. § 901(1)).</p>
<b>1B</b>	<p><b>Non-consumer Debtors.</b> If your debts are not primarily consumer debts, check the box below and complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> <b>Declaration of non-consumer debts.</b> By checking this box, I declare that my debts are not primarily consumer debts.</p>
<b>1C</b>	<p><b>Reservists and National Guard Members; active duty or homeland defense activity.</b> Members of a reserve component of the Armed Forces and members of the National Guard who were called to active duty (as defined in 10 U.S.C. § 101(d)(1)) after September 11, 2001, for a period of at least 90 days, or who have performed homeland defense activity (as defined in 32 U.S.C. § 901(1)) for a period of at least 90 days, are excluded from all forms of means testing during the time of active duty or homeland defense activity and for 540 days thereafter (the "exclusion period"). If you qualify for this temporary exclusion, (1) check the appropriate boxes and complete any required information in the Declaration of Reservists and National Guard Members below, (2) check the box for "The presumption is temporarily inapplicable" at the top of this statement, and (3) complete the verification in Part VIII. <b>During your exclusion period you are not required to complete the balance of this form, but you must complete the form no later than 14 days after the date on which your exclusion period ends, unless the time for filing a motion raising the means test presumption expires in your case before your exclusion period ends.</b></p> <p><input type="checkbox"/> <b>Declaration of Reservists and National Guard Members.</b> By checking this box and making the appropriate entries below, I declare that I am eligible for a temporary exclusion from means testing because, as a member of a reserve component of the Armed Forces or the National Guard</p> <div style="margin-left: 40px;"> <p>a. <input type="checkbox"/> I was called to active duty after September 11, 2001, for a period of at least 90 days and  <input type="checkbox"/> I remain on active duty /or/  <input type="checkbox"/> I was released from active duty on _____, which is less than 540 days before this bankruptcy case was filed;</p> <p style="text-align: center;">OR</p> <p>b. <input type="checkbox"/> I am performing homeland defense activity for a period of at least 90 days /or/  <input type="checkbox"/> I performed homeland defense activity for a period of at least 90 days, terminating on _____, which is less than 540 days before this bankruptcy case was filed.</p> </div>

**Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION**

2	<b>Marital/filing status.</b> Check the box that applies and complete the balance of this part of this statement as directed. a. <input type="checkbox"/> Unmarried. <b>Complete only Column A ("Debtor's Income") for Lines 3-11.</b> b. <input type="checkbox"/> Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: "My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code." <b>Complete only Column A ("Debtor's Income") for Lines 3-11.</b> c. <input type="checkbox"/> Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. <b>Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.</b> d. <input type="checkbox"/> Married, filing jointly. <b>Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.</b>													
All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.			<b>Column A Debtor's Income</b>	<b>Column B Spouse's Income</b>										
3	<b>Gross wages, salary, tips, bonuses, overtime, commissions.</b>			\$	\$									
4	<b>Income from the operation of a business, profession or farm.</b> Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. <b>Do not include any part of the business expenses entered on Line b as a deduction in Part V.</b> <table border="1" data-bbox="207 926 1166 1073"> <tr> <td data-bbox="207 926 277 974">a.</td> <td data-bbox="277 926 808 974">Gross receipts</td> <td data-bbox="808 926 1166 974">\$</td> </tr> <tr> <td data-bbox="207 974 277 1022">b.</td> <td data-bbox="277 974 808 1022">Ordinary and necessary business expenses</td> <td data-bbox="808 974 1166 1022">\$</td> </tr> <tr> <td data-bbox="207 1022 277 1073">c.</td> <td data-bbox="277 1022 808 1073">Business income</td> <td data-bbox="808 1022 1166 1073">Subtract Line b from Line a</td> </tr> </table>			a.	Gross receipts	\$	b.	Ordinary and necessary business expenses	\$	c.	Business income	Subtract Line b from Line a	\$	\$
a.	Gross receipts	\$												
b.	Ordinary and necessary business expenses	\$												
c.	Business income	Subtract Line b from Line a												
5	<b>Rent and other real property income.</b> Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. <b>Do not include any part of the operating expenses entered on Line b as a deduction in Part V.</b> <table border="1" data-bbox="207 1192 1166 1339"> <tr> <td data-bbox="207 1192 277 1241">a.</td> <td data-bbox="277 1192 808 1241">Gross receipts</td> <td data-bbox="808 1192 1166 1241">\$</td> </tr> <tr> <td data-bbox="207 1241 277 1289">b.</td> <td data-bbox="277 1241 808 1289">Ordinary and necessary operating expenses</td> <td data-bbox="808 1241 1166 1289">\$</td> </tr> <tr> <td data-bbox="207 1289 277 1339">c.</td> <td data-bbox="277 1289 808 1339">Rent and other real property income</td> <td data-bbox="808 1289 1166 1339">Subtract Line b from Line a</td> </tr> </table>			a.	Gross receipts	\$	b.	Ordinary and necessary operating expenses	\$	c.	Rent and other real property income	Subtract Line b from Line a	\$	\$
a.	Gross receipts	\$												
b.	Ordinary and necessary operating expenses	\$												
c.	Rent and other real property income	Subtract Line b from Line a												
6	<b>Interest, dividends and royalties.</b>			\$	\$									
7	<b>Pension and retirement income.</b>			\$	\$									
8	<b>Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child support paid for that purpose.</b> Do not include alimony or separate maintenance payments or amounts paid by your spouse if Column B is completed.			\$	\$									
9	<b>Unemployment compensation.</b> Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below: <table border="1" data-bbox="207 1717 1166 1793"> <tr> <td data-bbox="207 1717 678 1793">Unemployment compensation claimed to be a benefit under the Social Security Act</td> <td data-bbox="678 1717 911 1793">Debtor \$ _____</td> <td data-bbox="911 1717 1166 1793">Spouse \$ _____</td> </tr> </table>			Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____	\$	\$						
Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____												

10	<b>Income from all other sources.</b> Specify source and amount. If necessary, list additional sources on a separate page. <b>Do not include alimony or separate maintenance payments paid by your spouse if Column B is completed, but include all other payments of alimony or separate maintenance.</b> Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism.			
	a.		\$	
	b.		\$	
	Total and enter on Line 10		\$	\$
11	<b>Subtotal of Current Monthly Income for § 707(b)(7).</b> Add Lines 3 thru 10 in Column A, and, if Column B is completed, add Lines 3 through 10 in Column B. Enter the total(s).		\$	\$
12	<b>Total Current Monthly Income for § 707(b)(7).</b> If Column B has been completed, add Line 11, Column A to Line 11, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 11, Column A.		\$	
<b>Part III. APPLICATION OF § 707(b)(7) EXCLUSION</b>				
13	<b>Annualized Current Monthly Income for § 707(b)(7).</b> Multiply the amount from Line 12 by the number 12 and enter the result.			\$
14	<b>Applicable median family income.</b> Enter the median family income for the applicable state and household size. (This information is available by family size at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)			
	a. Enter debtor's state of residence: _____ b. Enter debtor's household size: _____			\$
15	<b>Application of Section 707(b)(7).</b> Check the applicable box and proceed as directed.			
	<input type="checkbox"/> <b>The amount on Line 13 is less than or equal to the amount on Line 14.</b> Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete Part VIII; do not complete Parts IV, V, VI or VII.			
	<input type="checkbox"/> <b>The amount on Line 13 is more than the amount on Line 14.</b> Complete the remaining parts of this statement.			

**Complete Parts IV, V, VI, and VII of this statement only if required. (See Line 15.)**

<b>Part IV. CALCULATION OF CURRENT MONTHLY INCOME FOR § 707(b)(2)</b>				
16	Enter the amount from Line 12.			\$
17	<b>Marital adjustment.</b> If you checked the box at Line 2.c, enter on Line 17 the total of any income listed in Line 11, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. Specify in the lines below the basis for excluding the Column B income (such as payment of the spouse's tax liability or the spouse's support of persons other than the debtor or the debtor's dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If you did not check box at Line 2.c, enter zero.			
	a.		\$	
	b.		\$	
	c.		\$	
	Total and enter on Line 17.			\$
18	<b>Current monthly income for § 707(b)(2).</b> Subtract Line 17 from Line 16 and enter the result.			\$
<b>Part V. CALCULATION OF DEDUCTIONS FROM INCOME</b>				
<b>Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)</b>				
19A	<b>National Standards: food, clothing and other items.</b> Enter in Line 19A the "Total" amount from IRS National Standards for Food, Clothing and Other Items for the applicable household size. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)			\$



<b>19B</b>	<p><b>National Standards: health care.</b> Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.) Enter in Line b1 the number of members of your household who are under 65 years of age, and enter in Line b2 the number of members of your household who are 65 years of age or older. (The total number of household members must be the same as the number stated in Line 14b.) Multiply Line a1 by Line b1 to obtain a total amount for household members under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for household members 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 19B.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: left;">Household members under 65 years of age</th><th colspan="2" style="text-align: left;">Household members 65 years of age or older</th></tr> </thead> <tbody> <tr> <td style="width: 5%;">a1.</td><td style="width: 40%;">Allowance per member</td><td style="width: 5%;">a2.</td><td style="width: 40%;">Allowance per member</td></tr> <tr> <td>b1.</td><td>Number of members</td><td>b2.</td><td>Number of members</td></tr> <tr> <td>c1.</td><td>Subtotal</td><td>c2.</td><td>Subtotal</td></tr> </tbody> </table>				Household members under 65 years of age		Household members 65 years of age or older		a1.	Allowance per member	a2.	Allowance per member	b1.	Number of members	b2.	Number of members	c1.	Subtotal	c2.	Subtotal	\$
Household members under 65 years of age		Household members 65 years of age or older																			
a1.	Allowance per member	a2.	Allowance per member																		
b1.	Number of members	b2.	Number of members																		
c1.	Subtotal	c2.	Subtotal																		
<b>20A</b>	<p><b>Local Standards: housing and utilities; non-mortgage expenses.</b> Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and household size. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court).</p>				\$																
<b>20B</b>	<p><b>Local Standards: housing and utilities; mortgage/rent expense.</b> Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and household size (this information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. <b>Do not enter an amount less than zero.</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 5%;">a.</td><td style="width: 55%;">IRS Housing and Utilities Standards; mortgage/rental expense</td><td style="width: 40%;">\$</td></tr> <tr> <td>b.</td><td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td><td>\$</td></tr> <tr> <td>c.</td><td>Net mortgage/rental expense</td><td>Subtract Line b from Line a.</td></tr> </tbody> </table>				a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$							
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$																			
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$																			
c.	Net mortgage/rental expense	Subtract Line b from Line a.																			
<b>21</b>	<p><b>Local Standards: housing and utilities; adjustment.</b> If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p>				\$																
<b>22A</b>	<p><b>Local Standards: transportation; vehicle operation/public transportation expense.</b> You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 8.</p> <p><input type="checkbox"/> 0   <input type="checkbox"/> 1   <input type="checkbox"/> 2 or more.</p> <p>If you checked 0, enter on Line 22A the "Public Transportation" amount from IRS Local Standards: Transportation. If you checked 1 or 2 or more, enter on Line 22A the "Operating Costs" amount from IRS Local Standards: Transportation for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (These amounts are available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)</p>				\$																
<b>22B</b>	<p><b>Local Standards: transportation; additional public transportation expense.</b> If you pay the operating expenses for a vehicle and also use public transportation, and you contend that you are entitled to an additional deduction for your public transportation expenses, enter on Line 22B the "Public Transportation" amount from IRS Local Standards: Transportation. (This amount is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)</p>				\$																

23	<p><b>Local Standards: transportation ownership/lease expense; Vehicle 1.</b> Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.)</p> <p><input type="checkbox"/> 1   <input type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 42; subtract Line b from Line a and enter the result in Line 23. <b>Do not enter an amount less than zero.</b></p> <table border="1" data-bbox="203 394 1344 569"> <tr> <td>a.</td> <td>IRS Transportation Standards, Ownership Costs</td> <td>\$</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$									
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.									
24	<p><b>Local Standards: transportation ownership/lease expense; Vehicle 2.</b> Complete this Line only if you checked the "2 or more" Box in Line 23.</p> <p>Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 42; subtract Line b from Line a and enter the result in Line 24. <b>Do not enter an amount less than zero.</b></p> <table border="1" data-bbox="203 777 1344 961"> <tr> <td>a.</td> <td>IRS Transportation Standards, Ownership Costs</td> <td>\$</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$									
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.									
25	<p><b>Other Necessary Expenses: taxes.</b> Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self-employment taxes, social-security taxes, and Medicare taxes. <b>Do not include real estate or sales taxes.</b></p>	\$									
26	<p><b>Other Necessary Expenses: involuntary deductions for employment.</b> Enter the total average monthly payroll deductions that are required for your employment, such as retirement contributions, union dues, and uniform costs. <b>Do not include discretionary amounts, such as voluntary 401(k) contributions.</b></p>	\$									
27	<p><b>Other Necessary Expenses: life insurance.</b> Enter total average monthly premiums that you actually pay for term life insurance for yourself. <b>Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.</b></p>	\$									
28	<p><b>Other Necessary Expenses: court-ordered payments.</b> Enter the total monthly amount that you are required to pay pursuant to the order of a court or administrative agency, such as spousal or child support payments. <b>Do not include payments on past due obligations included in Line 44.</b></p>	\$									
29	<p><b>Other Necessary Expenses: education for employment or for a physically or mentally challenged child.</b> Enter the total average monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.</p>	\$									
30	<p><b>Other Necessary Expenses: childcare.</b> Enter the total average monthly amount that you actually expend on childcare—such as baby-sitting, day care, nursery and preschool. <b>Do not include other educational payments.</b></p>	\$									
31	<p><b>Other Necessary Expenses: health care.</b> Enter the total average monthly amount that you actually expend on health care that is required for the health and welfare of yourself or your dependents, that is not reimbursed by insurance or paid by a health savings account, and that is in excess of the amount entered in Line 19B. <b>Do not include payments for health insurance or health savings accounts listed in Line 34.</b></p>	\$									
32	<p><b>Other Necessary Expenses: telecommunication services.</b> Enter the total average monthly amount that you actually pay for telecommunication services other than your basic home telephone and cell phone service—such as pagers, call waiting, caller id, special long distance, or internet service—to the extent necessary for your health and welfare or that of your dependents. <b>Do not include any amount previously deducted.</b></p>	\$									
33	<p><b>Total Expenses Allowed under IRS Standards.</b> Enter the total of Lines 19 through 32.</p>	\$									

**Subpart B: Additional Living Expense Deductions****Note: Do not include any expenses that you have listed in Lines 19-32**

34	<p><b>Health Insurance, Disability Insurance, and Health Savings Account Expenses.</b> List the monthly expenses in the categories set out in lines a-c below that are reasonably necessary for yourself, your spouse, or your dependents.</p> <table border="1" data-bbox="198 323 1175 470"> <tr> <td>a.</td> <td>Health Insurance</td> <td>\$</td> </tr> <tr> <td>b.</td> <td>Disability Insurance</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Health Savings Account</td> <td>\$</td> </tr> </table> <p>Total and enter on Line 34</p> <p><b>If you do not actually expend this total amount,</b> state your actual total average monthly expenditures in the space below: \$ _____</p>	a.	Health Insurance	\$	b.	Disability Insurance	\$	c.	Health Savings Account	\$	\$
a.	Health Insurance	\$									
b.	Disability Insurance	\$									
c.	Health Savings Account	\$									
35	<p><b>Continued contributions to the care of household or family members.</b> Enter the total average actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses.</p>	\$									
36	<p><b>Protection against family violence.</b> Enter the total average reasonably necessary monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.</p>	\$									
37	<p><b>Home energy costs.</b> Enter the total average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. <b>You must provide your case trustee with documentation of your actual expenses, and you must demonstrate that the additional amount claimed is reasonable and necessary.</b></p>	\$									
38	<p><b>Education expenses for dependent children less than 18.</b> Enter the total average monthly expenses that you actually incur, not to exceed \$137.50 per child, for attendance at a private or public elementary or secondary school by your dependent children less than 18 years of age. <b>You must provide your case trustee with documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.</b></p>	\$									
39	<p><b>Additional food and clothing expense.</b> Enter the total average monthly amount by which your food and clothing expenses exceed the combined allowances for food and clothing (apparel and services) in the IRS National Standards, not to exceed 5% of those combined allowances. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.) <b>You must demonstrate that the additional amount claimed is reasonable and necessary.</b></p>	\$									
40	<p><b>Continued charitable contributions.</b> Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).</p>	\$									
41	<p><b>Total Additional Expense Deductions under § 707(b).</b> Enter the total of Lines 34 through 40</p>	\$									

**Subpart C: Deductions for Debt Payment**

<b>42</b>	<p><b>Future payments on secured claims.</b> For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, state the Average Monthly Payment, and check whether the payment includes taxes or insurance. The Average Monthly Payment is the total of all amounts scheduled as contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. If necessary, list additional entries on a separate page. Enter the total of the Average Monthly Payments on Line 42.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 20%;">Name of Creditor</th> <th style="width: 30%;">Property Securing the Debt</th> <th style="width: 20%;">Average Monthly Payment</th> <th style="width: 25%;">Does payment include taxes or insurance?</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td></td> <td></td> <td>\$</td> <td><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td>b.</td> <td></td> <td></td> <td>\$</td> <td><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td>c.</td> <td></td> <td></td> <td>\$</td> <td><input type="checkbox"/> yes <input type="checkbox"/> no</td> </tr> <tr> <td colspan="3"></td> <td>Total: Add Lines a, b and c.</td> <td></td> </tr> </tbody> </table>					Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?	a.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no	b.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no	c.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no				Total: Add Lines a, b and c.		\$
	Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?																										
a.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																										
b.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																										
c.			\$	<input type="checkbox"/> yes <input type="checkbox"/> no																										
			Total: Add Lines a, b and c.																											
<b>43</b>	<p><b>Other payments on secured claims.</b> If any of debts listed in Line 42 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 42, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 20%;">Name of Creditor</th> <th style="width: 30%;">Property Securing the Debt</th> <th style="width: 45%;">1/60th of the Cure Amount</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td></td> <td></td> <td>\$</td> </tr> <tr> <td>b.</td> <td></td> <td></td> <td>\$</td> </tr> <tr> <td>c.</td> <td></td> <td></td> <td>\$</td> </tr> <tr> <td colspan="3"></td> <td>Total: Add Lines a, b and c</td> </tr> </tbody> </table>					Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount	a.			\$	b.			\$	c.			\$				Total: Add Lines a, b and c	\$					
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount																											
a.			\$																											
b.			\$																											
c.			\$																											
			Total: Add Lines a, b and c																											
<b>44</b>	<p><b>Payments on prepetition priority claims.</b> Enter the total amount, divided by 60, of all priority claims, such as priority tax, child support and alimony claims, for which you were liable at the time of your bankruptcy filing. <b>Do not include current obligations, such as those set out in Line 28.</b></p>				\$																									
<b>45</b>	<p><b>Chapter 13 administrative expenses.</b> If you are eligible to file a case under chapter 13, complete the following chart, multiply the amount in line a by the amount in line b, and enter the resulting administrative expense.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 5%;">a.</td> <td style="width: 65%;">Projected average monthly chapter 13 plan payment.</td> <td style="width: 30%;">\$</td> </tr> <tr> <td>b.</td> <td>Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)</td> <td>x</td> </tr> <tr> <td>c.</td> <td>Average monthly administrative expense of chapter 13 case</td> <td>Total: Multiply Lines a and b</td> </tr> </tbody> </table>				a.	Projected average monthly chapter 13 plan payment.	\$	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)	x	c.	Average monthly administrative expense of chapter 13 case	Total: Multiply Lines a and b	\$																
a.	Projected average monthly chapter 13 plan payment.	\$																												
b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)	x																												
c.	Average monthly administrative expense of chapter 13 case	Total: Multiply Lines a and b																												
<b>46</b>	<p><b>Total Deductions for Debt Payment.</b> Enter the total of Lines 42 through 45.</p>				\$																									
<b>Subpart D: Total Deductions from Income</b>																														
<b>47</b>	<p><b>Total of all deductions allowed under § 707(b)(2).</b> Enter the total of Lines 33, 41, and 46.</p>				\$																									

**Part VI. DETERMINATION OF § 707(b)(2) PRESUMPTION**

48	Enter the amount from Line 18 (Current monthly income for § 707(b)(2))	\$
49	Enter the amount from Line 47 (Total of all deductions allowed under § 707(b)(2))	\$
50	Monthly disposable income under § 707(b)(2). Subtract Line 49 from Line 48 and enter the result	\$
51	60-month disposable income under § 707(b)(2). Multiply the amount in Line 50 by the number 60 and enter the result.	\$
52	<b>Initial presumption determination.</b> Check the applicable box and proceed as directed. <input type="checkbox"/> The amount on Line 51 is less than \$6,575. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete the verification in Part VIII. Do not complete the remainder of Part VI. <input type="checkbox"/> The amount set forth on Line 51 is more than \$10,950. Check the box for "The presumption arises" at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII. Do not complete the remainder of Part VI. <input type="checkbox"/> The amount on Line 51 is at least \$6,575, but not more than \$10,950. Complete the remainder of Part VI (Lines 53 through 55).	
53	Enter the amount of your total non-priority unsecured debt	\$
54	Threshold debt payment amount. Multiply the amount in Line 53 by the number 0.25 and enter the result.	\$
55	<b>Secondary presumption determination.</b> Check the applicable box and proceed as directed. <input type="checkbox"/> The amount on Line 51 is less than the amount on Line 54. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete the verification in Part VIII. <input type="checkbox"/> The amount on Line 51 is equal to or greater than the amount on Line 54. Check the box for "The presumption arises" at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII.	

**Part VII: ADDITIONAL EXPENSE CLAIMS**

56	<b>Other Expenses.</b> List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.	
	Expense Description	Monthly Amount
	a.	\$
	b.	\$
	c.	\$
	Total: Add Lines a, b and c	\$

**Part VIII: VERIFICATION**

57	I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this is a joint case, both debtors must sign.)</i>  Date: _____ Signature: _____ Date: _____ Signature: _____ <div style="text-align: right;">(Debtor)</div> <div style="text-align: right;">(Joint Debtor, if any)</div>	
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