
CHAPTER 13 - CLIENT MEMORANDUM

The purpose of this memo is to bring your attention certain matters and information that are of importance to you. You are presumed to have read and understand this information *before* your case is filed, as it is being provided to you in advance of the date of your signing appointment. If you have questions, be sure to ask your attorney at your signing appointment.

POST-FILING ACQUIRED PROPERTY

Any inheritance, property or lottery winnings you acquire during the entire length of your plan becomes part of this bankruptcy estate. You must report this to our office immediately and not spend it, as it is subject to Court jurisdiction. Unless ordered otherwise, it will have to be turned over to the trustee. We are permitted to file motions to retain all or a portion of these funds, provided we can demonstrate need. You will discuss with us should this happen during your plan.

Failure to notify/report any after acquired funds or property could result in the dismissal of your case, or if you have already received a discharge, the revoking of that discharge. This is extremely important and you agree to comply with this requirement.

TFS PAYMENTS – FIRST PAYMENTS

After your case is filed, you will need to create an account with TFS to make your first one or two plan payments. Go to <https://www.tfsbillpay.com/> to create your account.

Note that Court Rules REQUIRE plan payments to be made by payroll deduction, *unless otherwise ordered*. To get approval for non-payroll payment method, TFS, we must request exception from the court rule at the 341 meeting. Your attorney will discuss your payment method with you at your signing appointment.

VEHICLE VALUATION ISSUES ARE POSSIBLE

Due to your purchasing of a vehicle(s), your Chapter 13 plan proposes that we pay the creditor only what this vehicle(s) is worth at the time we file your case. Due to the fact that you owe more on the loan than what the vehicle is worth, the term we use in this scenario is that we are “cramming down” the vehicle.

We typically will use the trade-in value from the NADA vehicle valuation guide to determine the value we have placed on your vehicle(s) that we intend to cram down.

After your bankruptcy is filed, the creditor may not agree on the value we have placed on this vehicle(s). The creditor has the right to object to the value of the car, which they generally will do in an “Objection to Confirmation of the Plan”. Some creditors may not object right away and will show up at your hearing to request and schedule an appraisal be done of the vehicle: at their cost.

These disagreements are resolved by coming to an agreement with the creditor on the value of the vehicle and generally do not require any further appearances in court.

We provide this notice to make you fully aware of an issue that may arise in your case.

If you have any questions about this, speak to your attorney.

CHANGES DURING YOUR CHAPTER 13 PLAN

You must get court permission if any of the following apply to you:

- You need to incur any new debt more than \$1000
 - Example: Need a loan for a vehicle or financing new furnace
- Sell or give away any asset worth more than \$1000.
 - Example: Giving a vehicle to your child
- Retain any insurance proceeds for any reason
 - Example: Car repairs, home repairs
- Hire a lawyer
 - Court must be aware and approve your lawyer
- Settle a lawsuit
 - Court must approve terms of your settlement BEFORE you agree.
- Getting a divorce

Please call us if any of these issues ever apply to you. Do not spend any money you may have received before discussing it with our office.

You must keep our office updated on the following as we do not know these unless you tell us:

- Income tax returns, including all schedules, w-2 and 1099 must be submitted annually
- Changes in your employer, or in your address.
- Significant changes in income, whether those are an increase or a decrease
- Note that increases in your income may result in your plan payment increasing

DISCHARGED DEBT IS NOT TAXABLE

Any debt discharged through a bankruptcy proceeding is NOT taxable. Many creditors will still send out 1099 forms even though you have discharged their debt in a bankruptcy. You need to file a form 982 to alert the IRS to the discharged debt. We are not tax preparation advisors, so you'll need to consult whoever assists you with taxes or do this yourself. If you don't, the IRS may audit your return and assess tax based on 1099c income.

TAX DEBT IN CHAPTER 13

If you are discharging or paying tax debt in Chapter 13, be aware that interest does continue to accrue while you are in the chapter 13 plan, and there WILL be some tax debt remaining after you successfully complete your plan. And, we have scheduled your taxes based on the

information you have provided to us. If it later turns out that the IRS or State of Ohio take a position that is different than you have told us, your plan payment and the treatment of your taxes may change, your plan payment may increase, or some of the tax may not be discharged at the conclusion of your case.

CO-SIGNED DEBTS

You have listed someone in your bankruptcy petition as a co-debtor or someone who is co-signed on a debt you have. If you file Chapter 13, a co-debtor stay automatically goes into effect prohibiting creditors from collecting consumer debt from co-debtors. In order to maintain this protection, your Chapter 13 plan must provide for payment of the entire debt and interest. If you file a chapter 13 that provides for less than 100% payment to the unsecured creditors – most plans do NOT pay 100% to these creditors, then the creditor can obtain relief from the stay and pursue the co-debtor

DOMESTIC SUPPORT OBLIGATIONS *(CHILD SUPPORT AND ALIMONY)*

In order to receive your discharge, you MUST be current on your Domestic Support Obligation if you have one. That means that if you have any arrearage, you must be making your current payment, as well as some type of additional payment that includes this arrearage. If you are not current on this type of an arrangement, YOU WILL NOT RECEIVE A DISCHARGE.

If you have any questions about the dischargability of any of these obligations, discuss this with the attorney before your case is filed.

NOTE: Pursuant to Bankruptcy Rules, the obligee of your Domestic Support Obligation WILL RECEIVE NOTICE OF YOUR FILING. The Trustee is required to send out a notice to this person(s) and unfortunately, this is unavoidable. Also, the obligee is furnished with income about your case which includes your social security number. This is required under Federal Law and cannot be avoided. We are notifying you about this now in the event this causes you concern.

PAYMENTS FOR MORTGAGE ON YOUR HOME

If you currently have your house payments automatically deducted from your bank account, this may STOP after the filing of your bankruptcy even if you will be making the payment yourself throughout the course of your Chapter 13 plan. Creditors are typically very concerned about violating the automatic stay that goes into place once your case is filed, and for that reason, may stop automatically deducting your regular, monthly payments.

You are advised that when your house payment is coming due after your case filed, you must monitor your account to see if the payment comes out. If it does not come out automatically, you MUST STILL MAKE THE PAYMENT. Further, in order to stay current, you must make the payment by the due date NOT IN THE GRACE PERIOD. PAYMENTS MADE DURING THE GRACE PERIOD ARE TECHNICALLY LATE – NOT CURRENT.

While you are in the bankruptcy, you may need to continue to make the regular payment via mail, or bringing the check directly to your bank, as you must remain current on these mortgage payments.

IMPORTANT – FAILURE TO MAKE YOUR HOUSE PAYMENT CAN RESULT IN DISMISSAL OF YOUR CASE! The requirement that you make your house payment – even though it is not made through the chapter 13 plan, is still part of the Court Order for your Chapter 13, and failure to make the payment, on time, each month, can result in dismissal of your case. If you are going to be late or miss a house payment, you must contact our office immediately.

STUDENT LOAN DEBTS

If you owe educational loans or student loans, you understand that these are not discharged in bankruptcy.

If you are currently in an IDR, or IBR (income based repayment plan) a special plan provision is required and a special order, called and Agreed Order, will be requested from the Department of Justice.

YOU MUST BE CURRENT ON YOUR IBR AND REMAIN CURRENT AT ALL TIMES. If you are not current, or if you fall behind, you agree to inform us at once so this matter can be addressed.

IF YOU ARE NOT CURRENT ON YOUR IBR/IDR, YOU ARE NOT ELIGIBLE TO CONTINUE THE IBR/IDR IN YOUR BANKRUPTCY.

TELL US IF YOU ARE IN AN IDR/IBR AND IF YOU ARE CURRENT, OR NOT CURRENT, BEFORE WE FILE YOUR CASE.

HOMEOWNERS & CONDOMINUM FEES

If you are seeking to discharge condominium fees, you are advised that only those fees arising ***before you file*** your petition may be discharged. If you continue to live, or even you legally have the right to continue to live, in the condominium, any new fees incurred during that time are your responsibility and are not discharged.

For example, if you are permitting your condo to be surrendered to the bank and allow a foreclosure, then you will be responsible for all condo fees until you no longer have a right to live in the condo. This could be months, as foreclosure sales often do take months. You will continue to be responsible for and can be sued for, fees that arise after your bankruptcy.

EMAIL AUTHORIZATION

You authorize us to email, rather than U.S. Postal mail, all documents to you at the address you maintain with us for the HelpDesk.