



WHAT DOES "DISPOSABLE INCOME" HAVE TO DO WITH IT?

In every Chapter 13 Plan, the Debtor is required to pay into the plan all available disposable income for the benefit of creditors. For the duration of your Chapter 13 Plan (36, 48 or 60 months), your disposable income must be used to pay your creditors. If you plan pays less than 100% to your unsecured creditors, the Chapter 13 Trustee will continue to review your income and monthly expenses to determine if your plan percentage or monthly plan amount should be increased.

In the Western District of Kentucky, the Chapter 13 Trustee requires a yearly update of your income and expenses and a copy of your yearly tax return. If you are entitled to receive a refund that is primarily based on an overpayment of taxes, this "disposable income" is required to be turned over to the Trustee for additional payments to your secured creditors. The only way to avoid this outcome is to fund your Chapter 13 Plan with 100% repayment to all creditors. In a majority of cases, 100% repayment is not possible for the obvious reason. Many Debtors would not file for bankruptcy protection if they could afford to fully repay their creditors.

Failure to pay all disposable income into the Chapter 13 Plan is a legitimate objection that will be sustained by the bankruptcy court when it is filed by the Chapter 13 Trustee. Unless the Debtor can show that the additional income is subject to some exception, the Court will require it to be paid into the plan even after confirmation has occurred. Just as the Debtor may bring a motion for a reduction in the plan payment when there has been a downward adjustment in disposable income, the Trustee is allowed to request an increase when there has been an upward adjustment in disposable income. In other words, what's good for the goose is also good for the gander!

[Form B22c](#)

[Local Rule 6070-1](#)

[Projected Disposable Income and Tax Refunds](#)

For information on what is your disposable income for purposes of a Chapter 13 Plan contact Denise Brown's Legal Direction at 502-587-0331.



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