

## **FOREWORD**

This handbook answers some of the most common questions asked by debtors participating in the Chapter 13 Program (“Chapter 13”). Because Chapter 13 is a legal proceeding encompassing numerous and complex issues which exceed the scope of this publication, Chapter 13 debtors should contact their attorneys whenever they have questions. The Chapter 13 Trustee administers your case and provides this booklet for your convenience only. The Chapter 13 Trustee office is not a law firm and does not give out legal advice. **Any communication from the Chapter 13 Trustee and/or her staff to you or your attorney should NOT be construed as legal advice, including this booklet.** Rather, you should seek legal advice from your attorney.

You should read this entire booklet as soon as possible so that you will know some of the rules and expectations of the Chapter 13 Trustee. You will also learn some important and helpful facts. Understanding the information in this booklet can save you time, stress and possibly court hearings. **The material in this booklet is not to be reproduced or recopied in any way without the express written consent of the Chapter 13 Trustee for the Eastern District of Tennessee – Southern and Winchester Divisions.**

The information in this booklet is subject to change without notice. The information provided in this booklet, as well as additional information about the bankruptcy process and your duties as a debtor, may be found on the Chapter 13 Trustee’s website at [www.ch13cha.com](http://www.ch13cha.com).

Revised: 08/2020

## **INTRODUCTION**

Chapter 13 is a form of bankruptcy available to individuals or families with regular income that are experiencing difficulty paying their debts. During the life of your Chapter 13 case, you will be referred to as a “debtor.” This describes a person who is under the protection of the United States Bankruptcy Court. Chapter 13 is a long-term commitment of debt repayment, and you are to be commended for accepting the responsibility of repaying your creditors. It is very important that you understand the Chapter 13 requirements in order to successfully complete your case. Here are simple steps to help ensure your Chapter 13 success.

1. **Hire an experienced bankruptcy attorney to help you through this process.** Success without an attorney is extremely unlikely. Your attorney’s role is to advise you. If you do not understand something, then ask questions. Be sure you have a clear understanding of what is happening in your case. Communicate with your attorney and respond immediately to your attorney’s calls and correspondence.
2. **Develop an honest, straightforward, accurate and complete plan with your attorney.** This includes developing a household budget and sticking to it as best you can.
3. **Read and confirm the accuracy of every document you sign.**

4. **Make your payments to the Chapter 13 Trustee on time and in full.** Write your full name, address and case number on every personal check, money order, cashier's check, letter or other correspondence that you send to the Chapter 13 Trustee.
5. **Pay attention to what is happening in your case.** Review the claims and claim amounts filed in your case to make sure they are correct. If you feel there is a mistake, contact your attorney.
6. **Open your mail and keep your mailing address current with your attorney.** Read all correspondence that you receive from your attorney, the Bankruptcy Court, the Chapter 13 Trustee's Office and/or creditors. Respond to such correspondence through notifying and working diligently with your attorney. Additionally, if you move or your mailing address changes, then notify your attorney so the correct documents can be filed with the Bankruptcy Court.
7. **Contact your attorney if you want to sell, refinance, gift or dispose of any of your property.** Bankruptcy Court approval is required before you can sell or transfer any of your property while in Chapter 13.
8. **Contact your attorney if you need to borrow money or are incurring expenses that you cannot pay for in cash when due.** Bankruptcy Court or Chapter 13 Trustee approval is required before you can incur any debt. This includes but is not limited to:
  - a. Leasing a car, appliance, television or furniture;
  - b. Financing or refinancing a home;
  - c. Incurring student loans for yourself or others; and
  - d. Post-dating a check to a payday loan company.
9. **Keep your attorney informed of changes and events that occur in your life.** This includes: marriage, name change, moving, divorce, death of joint-debtors or spouse or members of your household; job changes, salary changes, overtime changes, additional jobs; personal injury, workers compensation, buyout, severance package, disability status, retirement income, pending lawsuits, new lawsuits, lawsuit proceeds received, inheritances, insurance proceeds received, gifts, change in child or spousal support payments, lottery winnings, etc.
10. **Read and save this booklet.** If you lose this booklet or would like an additional copy, contact the Chapter 13 Trustee's Office and a new one will be provided at no charge. You can also access this booklet online at [www.ch13cha.com](http://www.ch13cha.com).

The Chapter 13 Trustee's Office wishes you success in completing your plan. The Chapter 13 Trustee will provide you with factual information about the status of your case and administration, but the Chapter 13 Trustee and her employees/representatives will NOT give you legal advice, and

any information provided to you by them should NOT be construed by you or your attorney as legal advice or a guarantee. You must consult with your attorney for all legal opinions and advice.

We understand that Chapter 13 compliance is not easy and that you are cutting costs to live within your proposed budget. However, thousands of families have successfully completed their plans and resolved or improved their debt problems. Again, I commend you for choosing Chapter 13 and for your commitment to repay your debts. We sincerely wish you success!

### **GENERAL INFORMATION**

- 1. The Chapter 13 Trustee and her staff will not give you or your attorney legal advice. Information communicated to you by the Chapter 13 Trustee or any staff member is not intended to constitute legal advice. You must consult with your attorney for all legal opinions and advice.**
- 2. Your first plan payment is due within 30 days of the date that your Chapter 13 Petition was filed with the Bankruptcy Court.** If your case converted from Chapter 7 to Chapter 13, your first payment is due within 30 days from the date of conversion.
- 3. You must make your full plan payment.** If you do not make a full payment, your case may be dismissed from the Chapter 13 program. It is very important to contact your attorney if you ever expect to miss a plan payment due to being laid off, becoming medically disabled, changing jobs, etc. There are serious consequences if your case is dismissed. You may be prevented from seeking future bankruptcy relief or your future bankruptcy relief could be limited. **The Trustee has no authority to let you miss a payment or allow you to pay less than your plan requires.** The Trustee must enforce your Chapter 13 plan as it was approved by the Bankruptcy Judge.
- 4. You can make your plan payment by Wage Order to your employer, money order, cashier's check, personal check, or online through TFS Bill Pay.** There is a link to TFS Bill Pay on the Trustee's website at [www.ch13cha.com](http://www.ch13cha.com). **CASH IS NOT ACCEPTED BY THE TRUSTEE. Do not send cash through the mail.**
- 5. Mail plan payments and correspondence to: Chapter 13 Trustee, P.O. Box 511, Chattanooga, TN 37401.** If you mail a plan payment to the Trustee's physical address, you will slow down the processing of your payment and risk that the payment may be returned to you. The Trustee will not accept a plan payment hand-delivered at her office. **In order for us to properly identify any payment as YOURS, please include on the face of your payment: your full name, address and case number.**
- 6. Making your Chapter 13 plan payments through a Wage Order to your employer is an easy way to ensure that your payments are made to the Chapter 13 Trustee on time.** Please contact your attorney to set up a Wage Order. **If your plan payment is being made by Wage Order to your employer, it is still your responsibility to ensure that payments**

**are made.** If you get a paycheck and your plan payment has not been deducted, make the payment yourself to the Trustee's payment address or through TFS Bill Pay. Then check with your payroll department to determine why the plan payment was not deducted from your check.

7. You can also make your payment by mailing a money order or certified check made **payable to the Chapter 13 Trustee.** Unless you have previously presented a bad check to our office, you may also make payments by mailing a personal check.
8. Plan payments must be posted to your case before the end of the month to be available for disbursement to creditors in that cycle. Personal checks and insurance checks must be posted to your case at least 10 business days before the end of the month to be available for disbursements to creditors in that cycle. If a payment is not posted to the Trustee's database within that time period, those funds will not be available for distribution to your creditors until the following month's distribution cycle. **DO NOT SEND POST-DATED CHECKS.**
9. The Chapter 13 Trustee only distributes funds to creditors who have filed Proofs of Claim. The Trustee cannot send money to creditors who fail to file claims in your case. Whether you should file a claim for a creditor who fails to do so is a legal issue which you should discuss with your attorney.
10. Creditors not listed by you when you filed your bankruptcy case can create issues. If you later discover a creditor that you forgot to list in your bankruptcy documents, you must inform your attorney immediately.
11. After your Chapter 13 plan is confirmed and the two "bar dates" for filing Proofs of Claim have passed, you and your attorney will receive a document titled "Trustee's Notice of Claims Filed" from the Trustee's Office. **REVIEW THIS DOCUMENT CAREFULLY.** It outlines which creditors have filed claims in your case, the types of claims they filed, and in what amounts. If you believe a creditor filed a claim incorrectly as to the amount of the claim, type of claim, or both, contact your attorney immediately, so that the formal written objection to the claim can be filed with the Bankruptcy Court. Once the objection is filed, the Bankruptcy Judge may set the matter for a court hearing to resolve the dispute. **If you do not file a proper objection, the Chapter 13 Trustee, generally, must pay the claim pursuant to your confirmed plan.** Filed claims may increase the length of time you are in Chapter 13.
12. You are required to maintain a current address in the Trustee's database and in the Bankruptcy Court's records. If you move, notify your attorney to file a notice of address change with the Bankruptcy Court. The Chapter 13 Trustee will not change her records until the Court's records are updated with your new address because the address on file with the Court is your official address for bankruptcy purposes.

13. Notify your attorney, **in writing**, of any changes to your employment or income status (i.e. second job, overtime, job loss, raise, etc.). Your attorney then must file the necessary documents with the Bankruptcy Court and amend your plan and schedules as required.
14. If you acquire any real or personal property while in the Chapter 13 program, you must notify your attorney. Examples of this would include: inheritances, life or any other insurance proceeds, recoveries from legal actions, bonuses, gifts, etc. Your attorney then must file the necessary documents with the Bankruptcy Court and amend your plan and schedules as required.
15. You must operate on a cash basis while in Chapter 13. You must not use credit cards or any other financing. Generally, you are not permitted to borrow or use any other form of credit unless you have written permission from the Bankruptcy Judge or the Chapter 13 Trustee. **The only exception for borrowing without prior approval is in the case of an emergency for the protection and preservation of life, health, and property.** This prohibition against borrowing applies to any member of your family that is supported by you, whether they are under the jurisdiction of the Bankruptcy Court or not, as long as you, the debtor in the Chapter 13, may be held responsible for the debt or any of your property is collateral for the debt. Here are some examples of borrowing that are prohibited without prior Bankruptcy Court approval (this list is not exclusive):
  - Leasing a car, appliance, television, furniture, etc.
  - Financing or refinancing a house
  - Incurring student loans for yourself or others
  - Post-dating a check to a payday loan company
  - Borrowing against your retirement account
  - Obtaining a loan or signing a note, even as a co-signor or guarantor
  - Pledging your property as collateral for a debt
  - Entering into a “rent to own” contract
  - Buying anything “over time”
  - Advances on your salary
  - “Running up a bill”

If you need a credit card in your name for work purposes, discuss this matter with your attorney so that approval can be sought from the Bankruptcy Judge.

Obtaining credit without permission of the Bankruptcy Judge or Chapter 13 Trustee can have serious consequences. Your case may be dismissed, and your ability to obtain future relief from your creditors may be severely limited. Any credit purchase you make without Court approval could be prohibited, what was purchased might have to be returned, and you very likely would lose any payment you made.

16. Requests to borrow may be made to the Chapter 13 Trustee using a form that you can obtain from your attorney. All requests must be signed by your attorney, state the name of the lender, the amount of the loan, the terms of repayment (including monthly payment amount and interest rate), the purpose of the loan, and the impact of the borrowing on your ability to fund your Chapter 13 plan. **THE CHAPTER 13 TRUSTEE IS NOT A FINANCING RESOURCE. THE TRUSTEE DOES NOT LEND MONEY. If the Chapter 13 Trustee does not approve the request, then you may seek permission from the Bankruptcy Judge with a formal motion, which must be filed by your attorney.**
17. Generally, you cannot sell, refinance, gift or dispose of any of your property during your Chapter 13 case, without the approval of the Bankruptcy Judge. This includes your house, car, appliances, furniture, jewelry, etc. Whether the property was acquired before or after you filed your case does not matter. Whether you paid for the property or the Trustee is making payments on the property does not matter. If you want to sell any property, you **MUST** contact your attorney to determine the appropriate course of action. Most sales require advance permission of the Bankruptcy Judge, and your attorney must file the appropriate motions to receive the Judge's approval before the sale can proceed. Talk to your attorney before you sell any property.
18. You must maintain insurance on your property. **Insurance usually is not part of your Chapter 13 plan payment unless your homeowners insurance is part of an on-going mortgage payment being paid from your Chapter 13 plan payment. All of your property must be insured against physical loss for at least the values stated in your schedules. If you operate a business or are self-employed, you must have liability insurance and other insurance customary for the industry, such as workers compensation, products liability, professional liability, etc.** Your motor vehicles may not be operated without insurance. You should keep your insurance policies and declaration pages handy, to protect yourself, should any creditor ever believe that your insurance has lapsed. If an interested party, including the Chapter 13 Trustee, requests proof of insurance and you fail to provide it, it may be presumed that no insurance is in effect. Generally, you are required to prepay at least two months of insurance on your motor vehicle. If your homeowner's insurance is part of your mortgage payment, discuss this with your attorney to ensure that this coverage remains in force. Contact your attorney immediately if you encounter problems with any of your insurance policies.
19. You must remain current with all of your financial obligations that are not being paid through your Chapter 13 plan payment. In addition to secured claims being paid directly, this includes all of your tax obligations that come due after filing Chapter 13.
20. You must prepare and file your tax returns annually or as they are otherwise required by law. **The Chapter 13 Trustee will not prepare or file your tax returns.** You must timely pay all of your taxes that come due after you file Chapter 13. You must submit a copy of your tax returns to the Chapter 13 Trustee upon her request or as required in your Chapter 13 Plan. **If you receive a tax refund, contact your attorney before you spend it.**
21. **You must discuss with your attorney the timely and formal assumption or rejection of unexpired leases and executory contracts.** This is a complicated and important issue.

It is necessary for you and your attorney to thoroughly discuss and appropriately deal with these issues.

22. Twice a year, you will receive in the mail a document titled “Trustee’s Report of Receipts and Disbursements” from the Trustee’s Office showing the prior financial activity in your case. **REVIEW IT CAREFULLY.** Examine all payments you made, claims filed and approved, and disbursements to creditors for correctness. If you think there is a mistake, contact your attorney with problems or questions immediately.
23. You can also view activity in your case on a day to day basis, if desired, by accessing the website [www.trustee13.com](http://www.trustee13.com). The Chapter 13 Trustee recommends that you review the activity in your case at least once per month. There is no charge to you for this service. To access your case information, select Kara L. West as the trustee, enter your case number including the dash as the username (xx-xxxxx), and enter the last four digits of the primary debtor’s social security number as the password.
24. The Chapter 13 Trustee’s Office answers telephone calls Monday through Friday from 8:00 a.m. - 4:30 p.m., Eastern Time, except on holidays or during staff training. Because of the large call volume, you may need to leave a voicemail message. Please leave your name, case number, a telephone number where you can be reached during the day, and a general statement about the nature of your call. Phone calls are generally returned within 24 hours. If you have an emergency, you should contact your attorney, not the Chapter 13 Trustee’s Office.
25. If any aspect of your case is set for hearing, those hearings will happen with the Bankruptcy Judge in the Bankruptcy Court at a United States Courthouse. You must have a government-issued photo ID to enter the courthouse. Additionally, all cell phones and electronic devices must be silenced before entering the courthouse. You should always check the documents mailed to you (or with your attorney) for the time and location of any court hearing. Note, cases filed in the Winchester area and cases filed in the Chattanooga area each have different courthouse locations. Discuss all matters set for hearing with your attorney prior to the court date. Your attorney will advise you where, when and how to appear for the hearing as well as whether you need to bring any documents.
26. Inquiries regarding the amount of money necessary to pay off your Chapter 13 case or for the number of months before your case will complete can only be supplied by the Chapter 13 Trustee’s Office upon a written request signed by you and your attorney. Discuss the matter with your attorney so that an appropriate form can be sent to the Chapter 13 Trustee’s Office. Any information provided regarding the status of a case or claim is subject to court approval and is not legally binding.
27. **DO NOT GAMBLE WHILE YOU ARE IN CHAPTER 13.** If you fail to comply with this prohibition, the Chapter 13 Trustee may request that any gambling winnings or the equivalent dollar amount of gambling losses be paid into your Chapter 13 case or that your case be dismissed.

This booklet is merely a brief overview of various aspects of your case and the Chapter 13 Program. Additional information regarding Chapter 13 and your duties as a debtor is available on the Chapter 13 Trustee's website at [www.ch13cha.com](http://www.ch13cha.com). If you have any questions, please consult the Trustee's website and contact your attorney.