

Calculating a Chapter 13 Plan Payment

Before filing a Chapter 13 Plan, it is important to understand how the law determines your plan payment amount and the amount of your estimated payment. The general idea is that the law requires you to submit all of your disposable income to the Trustee for payment to your creditors during the life of the plan. However, one exception to this rule merits a brief mention. The law states that regardless of a debtor's disposable income, the total amount of payments made to the Trustee during the life of the plan may not be less than creditors would have received if a Chapter 7 liquidation petition was filed. Therefore, your attorney will run a hypothetical liquidation test as part of the payment analysis. For example, a debtor with a primary residence valued at \$100,000 with no mortgage lien would be entitled to a \$21,625 (2010 to 2013 figures for Ohio only) exemption. This would leave \$78,375 available for unsecured creditors (assuming no other non-exempt assets), and a Chapter 13 debtor in this circumstance could not propose a Chapter 13 Plan that provides the unsecured creditors with less than this amount over the life of the plan.

After performing the liquidation test, your attorney will then determine whether your income is above or below the median for your state for similarly situated households. For debtors with incomes below the median, plan payments will not be determined by the means test, but by other methods including, but not limited to, the individual debtor's budget, secured claims being paid through the plan (e.g., mortgage or car payment arrears) and priority claims (e.g., tax, child or spousal support, etc.).

For debtors with incomes above the median, the plan payment will be the greater of the amount determined above or as determined through the means test. To run the means test numbers, your attorney will need the following information: 6-Month average monthly income from all sources, the number of children living in the house, your mortgage payment amount, the number of vehicles in the home, the number of vehicles subject to secured claims, the car payment amounts and outstanding balances, average monthly payroll deductions (or actual budget figures if not deducted from payroll) for taxes, health, disability and/or life insurance, health savings accounts, mandatory payroll deductions for union dues, retirement contributions (e.g., OPERS),

401K loan repayments and mandatory child and/or spousal support, average monthly child care costs and documented charitable contributions.

Once the plan payment amount is determined, your attorney will calculate the percentage that the unsecured creditors would receive during the plan. For example, if the plan payment is determined to be \$500/month, and the length of the plan is 36 months, debtors will contribute a total of \$18,000.00 in plan payments to the Trustee. Additionally, debtors will be required to provide the Trustee with all other income received during the plan, including net tax refunds, bonuses, etc. Once the Trustee's administrative expenses, priority claims and secured claims are paid, the remaining funds are paid to the unsecured creditors. In this example, if we assume that there were no priority or secured claims, the Trustee was paid the maximum 10% administrative fee, and the debtor scheduled \$32,400.00 in unsecured debts, each creditor would receive 50% of its claim.