

CHAPTER 13 LIQUIDATING PLANS

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This is a comparison of an asset Chapter 7 case and a liquidating plan in a Chapter 13 case. A liquidating Chapter 13 case might be an option for a debtor who is income poor but otherwise has nonexempt assets to liquidate. The goal of the debtor would be to get more money to nondischargeable claims in a Chapter 13 case than would be paid out in a Chapter 7 case. However, a liquidating Chapter 13 would not be an option for an above median income debtor with disposable income. If a debtor files a liquidating Chapter 13 case and decides against it or the Chapter 13 trustee opposes it, then the debtor could convert the case to Chapter 7.

	<u>Chapter 7</u>	<u>Chapter 13</u>
<i>Filing Fee</i>	\$306.00	\$281.00
<i>Trustee Compensation</i>	\$1 - \$5,000 25% \$5,000.01 - \$50,000 10% ≥ \$50,000.01 5%	Maximum 10%; RB annualized rate for FY 2012 was 3.68%
<i>Trustee Costs</i>	Yes	No
<i>Trustee's Attorney Fees and Costs</i>	Yes, in many cases	No
<i>Pay Late Unsecured Claims?</i>	Yes, if other claims paid; § 726(a)(3)	No
<i>Quick Case Closing?</i>	No; trustee might pursue an increase in nonexempt property value	Yes
<i>Discharge Effect on Future Case</i>	No Chapter 7 discharge for 8 years, § 727(a)(8) No Chapter 13 for 4 years, § 1328(f)(1)	No Chapter 7 discharge, generally, for 6 years, § 727(a)(9) No Chapter 13 discharge for 2 years, § 1328(f)(2)

Hypothetical example (no Chapter 13 plan payment is assumed) with \$30,000 of nonexempt, noncash assets:

	<u>Chapter 7</u>	<u>Chapter 13</u>
<i>Gross Amount</i>	\$30,000.00	\$30,000.00
<i>Trustee Fee</i>	\$2,750.00	\$600.00 (assumes 5%)
<i>Trustee Costs (est.)</i>	\$250.00	\$0
<i>Trustee Attorney Fees and Costs (est.)</i>	\$3,000.00	\$0
<i>Net to Creditors</i>	\$24,000.00	\$29,400.00