

DISCLOSURE # 4

INSTRUCTIONS REQUIRED TO BE PROVIDED TO THE DEBTOR PURSUANT TO 11 U.S.C. § 527(c)

According to Code § 527(c), the following information is required to be provided to a bankruptcy client *only if* the attorney (or other “debt relief agency”) does not provide it. Since in the usual case the debtor cannot be presumed to have the analytical skills necessary to successfully handle this information, it is expected that in the ordinary case the lawyer or other bankruptcy professional handling the case will do the calculations required by this disclosure, it is not necessary that these instructions be provided to the debtor.

Instructions for providing the required information

1. How to place a value on your property

11 U.S.C. § 506(a): Fair Valuation of Collateral.

The value of your personal property that is collateral for debt (a debt where the creditor could repossess the item if you stop making payments, such as a car, furniture or computer equipment being purchased on installment) is determined based on the replacement value of such property as of the filing date of the bankruptcy case without deduction for selling or marketing costs.

If the item was acquired for personal, family, or household purposes, replacement value is the price a retail merchant would charge for an item of that kind, considering the age and condition of the property at the time its value is determined.

So, the value of the car, the furniture, the computer or anything else that you won’t own until it’s paid off, is not what you paid for it, and it is not what you could sell it for at the flea-market. The value is what you would have to pay a retail store selling similar items in a similar age and condition.

Most retail stores do not sell used items. However, there are usually stores in the are selling used furniture, musical instruments, cars, and similar products. You might be able to provide a good estimate of the value of one or your items by inquiring at such a store. If you can’t find a store that sells similar items in similr condition, the next best source for an objective appraisal is probably eBay or a similar online market.

2. How to determine current monthly income

To arrive at your current monthly income, you do the following:

- a. Total up all of your income for the last 6 months (and if your spouse is filing bankruptcy, his or her income as well).

Include the contributions from any member of the household who is contributing regularly to the household expenses.

Income includes:

1. Wages and salaries
2. Money earned from side jobs
3. Investment income
4. Interest income
5. Income for self-employed individuals

Income does not include:

1. Benefits received under the Social Security Act;
 2. Payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes; and
 3. Payments to victims of international terrorism (as defined in section 2331 of Title 18) or domestic terrorism (as defined in section 2331 of Title 18) on account of their status as victims of such terrorism.
- b. Divide this figure by 6 to arrive an an average monthly income.

3. How to figure your necessary living expenses

Go through the same exercise for your expenses. Total up all expenses for the last 6 months, then divide by 6 to obtain a monthly average. Expenses include all of your reasonably necessary costs of living, such as rent or mortgage, utilities, food, transportation, etc.

Do not include in your expenses payments for credit cards, repayments of personal loans, delinquent medical bills, taxes, store charge accounts, business debts, or other non-regular expenses not included as necessary living expenses.

Use the worksheet below as a guide.

Rent or home mortgage payment (include lot rented for mobile home)	\$ _____
Are real estate taxes included? Yes _____ No _____	
Is property insurance included? Yes _____ No _____	
Utilities Electricity and heating fuel	\$ _____
Water and sewer	\$ _____
Telephone	\$ _____
Other	\$ _____
Home maintenance (repairs and upkeep)	\$ _____
Food	\$ _____
Clothing	\$ _____
Laundry and dry cleaning	\$ _____
Medical and dental expenses	\$ _____
Transportation (not including car payments)	\$ _____
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ _____

APPENDIX

Charitable contributions	\$ _____
Insurance (not deducted from wages or included in home mortgage payments)	
Homeowner's or renter's	\$ _____
Life	\$ _____
Health	\$ _____
Auto	\$ _____
Other _____	\$ _____
Taxes (not deducted from wages or included in home mortgage payments)	
(Specify) _____	\$ _____
Installment payments: (In chapter 12 and 13 cases, do not list payments to be included in the plan)	
Auto	\$ _____
Other _____	\$ _____
Other _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____
Payments for support of additional dependents not living at your home	\$ _____
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ _____
Other _____	\$ _____
TOTAL MONTHLY EXPENSES	\$ _____

Divide the total by 6, which gives you your average monthly living expenses.

4. How to calculate your disposable income, if any.

If your average monthly income exceeds your reasonably necessary living expenses, subtract expenses from income; the surplus is your disposable income.

5. How to list your creditors (your debts)

For each person or entity (such as credit card, store, medical bill, IRS, mortgage, and etc.) for which you owe money, provide the following information:

1. Name and address of the creditor
2. The account number (if any)
3. The amount currently owed
4. The amount of the regular monthly payment (if any)
5. When was the debt created (if a credit card, give a range)?

6. Was the debt -
 - financing of a purchase (such as a home, car, furniture, etc.), or
 - a loan or debt for which you put up an item as collateral
7. If either part of question 6 is yes, describe the item purchased
8. What was the original retail price of the item?
9. What is its current value?
10. Are you current with the monthly payments?
11. If the answer to 10 is no, has the claim been turned over to a collection agency or lawyer?
12. If 11 is yes, provide the name and address of the collection agency or lawyer.
13. Has the creditor sued you or obtained a judgment against you?
14. If 13 is yes, provide the name of the plaintiff, the case number, the court and court location, and the amount of the judgment.

6. How to determine which of your assets are exempt

Exempt assets are assets that the bankruptcy trustee is not allowed to take away from you to pay debts. Most kinds of property owned by typical people who file bankruptcy are exempt, meaning you don't lose them if you file bankruptcy. But whether an item is exempt or not depends not only on what category of property it is, but also the value of your equity in the property (how much of the item do you own, over and above any balance owed on it). The permissible exemptions usually have dollar limits to the amount of equity you can claim as exempt.

In order to identify which of your assets are exempt, you must know the exemptions allowed in your particular state, or whether your state uses the federal exemptions. A pamphlet provided to you with these instructions lists the applicable bankruptcy exemptions in this state.

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that attorney _____ has given me a copy of this disclosure required by Bankruptcy Code § 527(c).

Dated: _____ X _____

WHITE COPY – CLIENT YELLOW COPY – ATTORNEY