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Trustee Fee

The standing trustee's percentage fee is fixed by the Director of the Executive Office for United States Trustees ("Director") by delegation from the Attorney General, after consultation with the United States Trustee for the region in which the standing trustee serves. 28 U.S.C. § 586(e)(1)(B). The standing trustee (hereinafter "Trustee") has no authority to negotiate a percentage fee other than that fixed by the Director.

The Trustee's percentage fee is collected from all payments received by the Trustee under the plan, upon the receipt of each payment.

Pursuant to 28 U.S.C. §586(e)(1)(B) the Trustee's fee cannot exceed 10%. Because the Trustee's fee can be, and has been 10%, all payoffs and feasibility calculations are performed assuming a 10% Trustee fee on receipt, regardless of the actual percentage of the Trustee's fee at the time of calculation.

To calculate plan feasibility and determine the amount available for creditors being paid through a debtor's plan, a debtor should deduct a 10% Trustee fee from each proposed plan payment. For example:

In a case where a debtor proposes to pay \$500 each month into their Chapter 13 plan, the hypothetical 10% Trustee fee on each payment is \$50, ($\$500 \times .10$), and the remaining amount available for creditors each month is \$450, ($\$450 \times .90$).

To calculate a payoff, the amount necessary to complete a debtor's case should be divided by .90. For example:

In a case where \$10,000.00 is necessary to pay all remaining required claims, the estimated payoff is \$11,111.11, ($\$10,000.00 / .90$). The payment of \$11,111.11 is assessed a hypothetical 10% Trustee fee, of \$1,111.11, ($\$11,111.11 \times .10$), and the remaining amount available for creditors is \$10,000.00, ($\$11,111.11 - \$1,111.11$).

The Trustee's percentage fee can change month to month and often there are weeks, if not months, between a payoff quote and the actual receipt of funds. This means that when the Trustee's percentage fee is 7.5% and a debtor submits a payoff based on a Trustee fee calculated at 10%, the debtor has overpaid. The Trustee only collects the amount of the Trustee's approved fee at the time the payment is received. Any overpayment will be refunded to the debtor. The Trustee does not collect a fee on the overpayment that is refunded to the debtor.