

**CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME AND  
CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME  
a/k/a THE MEANS TEST**

**Form 122C-1 Line by line instructions.**

**Part 1. Calculate Your Average Monthly Income**

All income figures in lines 2 through 10 are computed by totaling all applicable receipts during the six calendar months prior to the month in which the case is filed and dividing that total by six. The only income that is not to be reported in Part 1 is Social Security income. All other income regardless of the source must be reported.

**Line 2** includes all gross income from any source. This includes overtime whether or not it is recurring and any bonus or commission received during that time period whether it is monthly, annual, recurring or non-recurring. Income from a non-filing spouse must be included in column B as if it were a joint case.

**Line 3** alimony and maintenance payments received by the debtor or debtor's spouse are reported here even though they are later deducted on Form 122C-2 line 40.

**Line 4** includes contributions toward household expenses from family, friends, significant others or any other persons that live with the debtor. Non-filing spouse's income must be shown in line 2.

**Lines 5 and 6** Debtor must report all gross receipts; Ordinary and necessary operating expense must be actual out of pocket expenses the debtor can document and cannot include any amounts properly reported in Form 122C-2 as a deduction from income.

**Line 8** The position of the UST Program and my office is that unemployment compensation is not a benefit under the Social Security Act and therefore must be reported in Line 8.

**Line 11** is the total of all of the above and is the starting point for the calculation of the §1325(b)(4) commitment period and for determining the applicability of §1325(B)(3) for determining disposable income.

**Part 2. Determine How to Measure Your Deductions from Income (Application of § 1325 (b)(3) for determining Disposable Income)**

**Line 13** Marital Adjustment is for use only by married debtors not filing jointly with their spouse. That portion of the non filing spouse's income not used for household expenses of the debtor or debtor's dependents may be reported on line 13 as a deduction from CMI. Any amount claimed on line 13 must be documented. Appropriate marital adjustments include DSO's, actual debt payments and 401(k) contributions or 401(k) loan repayments. If the debtor and non filing spouse file joint tax returns then no entry for income taxes is appropriate. No deduction may be taken for any item on which a deduction is taken anywhere on Form 122C-2.

**Line 16 b**, household size, is the debtor plus spouse plus dependants, see IRS publication 501.

Considerations used in determining household size include time together, pooling of income, sharing expenses and functioning as a single economic entity. If a divorced debtor can claim a child as a dependant in alternate years, the child is properly included in the debtor's household on 16 b.

Applicable median family income is derived from Census Bureau data and is published by the UST.

**Line 17**, if the debtor's annualized CMI exceeds the applicable median family income, then disposable income is determined under §1325(b)(3) and Form 122C-2 must be completed; if not, disposable income is determined as it was before BAPCPA and Form 122C-2 is not completed.

### **Part 3. Calculation Your Commitment Period Under 11 U.S.C §1325(b)(4) .**

**Line 21**, if the debtor's annualized CMI as reduced by any appropriate marital adjustment exceeds the applicable median family income, the applicable commitment period is five years; if not, the applicable commitment period is three years.

## **Form 122C-2 Line by Line Instructions**

### **Part 1. Calculate Your Deductions from Your Income**

#### **Line 5 The number of people used in determining your deductions from income**

As a rule, you will need to overcome the trustee's objection to any number over and above debtors and people who are properly claimed as exemptions on their tax return.

#### **Lines 6-15 National Standards, Local Standards**

National Standards and Local Standards are taken from IRS tables. Links to Census Bureau Data, IRS Collection Financial Standards, IRS National Standards and IRS Local Standards can be found on the USTP website by clicking on [Means Testing Information](#) and selecting the appropriate date range based on the petition date under "[Data Required for Completing Form 22A and Form 22C](#)".

**Line 6** and **7** entries are taken from IRS National Standards.

**Line 8** is taken directly from IRS standards for the applicable county and household size; this includes homeowners' association dues, all utilities, basic phone, cellular and long distance service.

**Line 9**, taken in conjunction with Line **33a** allows debtors the greater of the Local Standard or their actual mortgage expense. If the debtor's mortgage expense is greater than the Local Standard the entry on Line **9** will be zero, they will deduct the entire monthly mortgage amount on line **33a**. If the debtor's mortgage expense is less than the standard, the debtor deducts the full mortgage expense on line **33a** and the difference between the standard and the mortgage expense on line **9**. If the debtor is a renter there is no entry in **9b** and the IRS Standard from line **9a** is entered on line **9c**.

**Line 10, If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing is incorrect and affects the calculation of your monthly expenses, fill in any additional amount you claim.** You must explain any entry on line 10 and expect an objection.

**Lines 11 and 12** Local Standards for transportation expense are taken directly from IRS standards. The trustee may object to deductions for more than one vehicle per debtor on line **12**.

**Line 13**, vehicle ownership / lease expense. As with mortgage deductions above; lines **13** and **33**, allow the debtors the greater of the Local Standard or their Average Monthly Payment on the debt secured by their vehicle. Debtors are not allowed a deduction for vehicle(s) they own free and clear. See the Supreme Court's Ransom decision published January 11, 2011. Debtors are not allowed deductions for more than two vehicles. The trustee may object to deductions for more than one vehicle for an individual debtor.

**Line 14** is an automatic entry for debtors who enter a zero on Line 11 thereby claiming no vehicle operating expense on Line 12.

**Line 15** is limited to debtors who commute to their job via public transportation.

**Line 16**, taxes. This is the debtor's actual income tax expense, not to be confused with the amount withheld. It is computed using the debtor's income tax liability from their federal and state tax returns and the amount withheld for Social Security and Medicare. It is common for debtor's to overstate this line item by entering their withholding amounts and not backing out their tax refund.

**Line 17**, involuntary deductions for employment. This deduction is narrowly defined to include only mandatory payroll deductions. Truly mandatory retirement deductions include deductions for government employees that are not subject to Social Security, union dues and uniform costs. 401(k) contributions and 401(k) loan repayments belong on line **41**.

**Line 18**, term life coverage on debtors only. There must be a corresponding entry on schedule I or J. The debtor should be prepared to document this expense.

**Line 19**, court-ordered payments, Domestic Support Obligations (DSO). DSO arrears are entered on line **35**. There must be corresponding entries in Schedules E and either I or J.

**Line 20** is for education required as a condition of employment [not for personal enrichment or advancement] and expenses for education that is required for a special needs child that is not provided by the debtor's local school district. Any entry on this line will have to be documented.

**Line 21**, debtors should be prepared to document any entry on this line; there must be a corresponding entry on Schedule J.

**Line 22**, additional health care expenses, this is the amount over and above the amount claimed on line **7**. Line **7** plus Line **22** equal the entry on Line 11 in Schedule J.

**Line 23**, telecommunication services. This deduction is much more narrowly defined than the corresponding entry in the old form. Do not include payments for basic home telephone, internet or cell phone service. Do not include self-employment expenses, such as those reported on line 5 of Form 122C-1, or any amount you previously deducted. Line **23** will almost always be **zero**.

**Line 25** Health Insurance, Disability Insurance, and Health Savings Account Expenses. Any entry on line 25 must match the corresponding entries on Schedule I line 5e and Schedule J lines 15b and 15d.

**Line 26**, Continued (historical) expenses that will continue in the future, note the qualifications: actual, monthly, reasonable, necessary, elderly, chronically ill or disabled, unable to pay. Documentation is required.

**Lines 27 and 28**, narrowly defined, any entry must be documented and justified.

**Line 29**, Education expenses for dependent children under 18. Limited to elementary or secondary school, limited to dependents under 18, does not include Pre School or college, must be documented and justified.

**Line 30**, Additional food and clothing expense. The default is zero. Any entry must be justified.

**Line 31**, **continuing** charitable contributions. Cash contributions only. Be prepared to document.

**Lines 33-37: Deductions for Debt Payments [Secured, Arrears, Priority and Administrative]**

**Line 33**, Future payments on secured claims. The entry will only equal the contract payment amount if the remaining term of the debt exceeds sixty months. The number entered as an Average Monthly Payment is the total amount due during the 60 months post petition divided by 60. Debtors may not deduct payments on property their plan will surrender or treat as unsecured because the lien is valued at zero. If there is no escrow for property taxes in the mortgage payment the debtor will have to include a separate entry for property taxes.

**Line 33a** Copy line **9b** here.

**Line 33b** Copy line **13b** here.

**Line 33c** Copy line **13c** here.

**Line 33d** Other secured debts, any amounts claimed here must be consistent with the amount paid as secured through the plan.

**Line 34** Arrears cure. The debtor may enter  $1/60^{\text{th}}$  of any arrears amount (cure amount) to be paid (through the plan) to a creditor shown in line **33**.

**Line 35**, Payments on pre-petition priority claims. The total amount of pre petition tax debt and pre petition DSO arrears divided by 60. Any entry here must be consistent with the amount paid as priority in Plan Section E6.

**Line 36**, Chapter 13 administrative expenses, this deduction approximates the trustee fee, the debtor must use the actual chapter 13 plan payment and the district multiplier to calculate the average monthly administrative expense.

## **Part 2. Determination of Disposable Income under § 1325(b)(2)**

**Line 40**, Support income. Deduct any child support, foster care, or disability payments reported as income in Part 1 of Form 122C-1, to the extent reasonably necessary to be expended for such child.

**Line 41**, Qualified retirement deductions. The debtor may deduct the continuing amount of regular 401(k) contributions. The debtor may also deduct the total amount to be repaid on 401(k) loans during the 60 months post petition, divided by 60.

**Line 43**, Deductions for special circumstances. Any entry must be documented and justified as necessary and reasonable.

**Line 45**, Monthly Disposable Income Under § 1325(b)(2). This number, multiplied by 60 represents the minimum amount that the debtor must pay to general unsecured creditors.

## **Part 3. Changes in Income or Expenses.**

**Line 46, Change in income or expenses.** If the income in Form 122C-1 or the expenses you reported in this form have changed or are virtually certain to change after the date you filed your bankruptcy petition and during the time your case will be open, fill in the information below. For example, if the wages reported increased after you filed your petition, check 122C-1 in the first column, enter line 2 in the second column, explain why the wages increased, fill in when the increase occurred, and fill in the amount of the increase.

Any entry on this line will have to be proven.