

INSTRUCTIONS FOR COMPLETING SCHEDULE A -- REAL PROPERTY

- 1) In the legal world, there are two kinds of property, "real property," which is real estate, and "personal property," which is everything else; such as cash, car, clothes, books, furniture, dishes, stocks, bonds, pets, etc. This Schedule A is only concerned with real property. Personal property is covered by Schedule B.
- 2) Ordinarily, a street address should be listed in the column entitled "Description and Location of Property," unless there is no street address or, if, for any reason, a street address would not accurately state the property's location. If the debtor holds no interest in real property, the debtor should write "None" in this column, place \$0 in the space marked "Total", report the total \$0 on the Summary of Schedules, and proceed directly to Schedule B.
- 3) In the column entitled "Nature of Debtor's Interest in Property," the debtor should describe the interest such as "owner," "holder of life estate," etc. An interest in property can be legal (such as when the debtor holds title, either alone or with another), equitable (such as when the debtor is the purchaser under a land contract), or future (such as when the debtor is the holder of a remainder interest subject to a life estate granted to another). If the interest is a leasehold, see Instruction 8, below.
- 4) Married debtors should indicate whether the property is jointly owned or separately owned, using the column marked "Husband, Wife, Joint, or Community." Married debtors are asked to place an "H," "W," "J," or "C" in this column.
- 5) In the column entitled "Current Market Value. . . ," the debtor should list the market value of the debtor's interest in the property without deducting the amount of any secured claim that may exist. In simple terms, this usually means the full market value should be listed.

If there is real property owned by a partnership in which the debtor is a partner, or owned simply with another individual who is not the debtor's spouse and without survivorship rights, it may be appropriate to list a value that represents only the debtor's proportional interest. Any listing of less than the full value of any property must be fully explained. If the debtor holds a life estate, its value must be stated. (This may be difficult to determine, and legal or other expert assistance may be needed). The debtor is asked to place the total dollar amount in the space provided.

- 6) Debtors should make sure that any market value listed in this schedule is consistent with the market value stated on Schedule C (Property Claimed as Exempt) and Schedule D (Creditors Holding Secured Claims).
- 7) In the column labeled "Amount of Secured Claim," debtors should list any entity that the debtor believes has a lien or holds a secured interest in any of the listed real property and state the amount of the secured claim. If no entity holds a secured interest in the real property, debtors should write "None" in the column.

8) Executory contracts and unexpired leases should not be included in this form; Schedule G is specifically designed for them. If the debtor is unsure which category fits the property and the debtor's interest in it, the debtor should list the property in both places. Schedule G contains definitions of both "executory contract," and "unexpired lease." These terms can be subject to varying interpretations, however, and a debtor holding such assets should seek expert counsel before filing a bankruptcy case.

9) Individual debtors and joint debtors should list the amount of any exemptions they claim with respect to real property on Schedule C.

10) Debtors should place the total dollar amount of the current market value of all real property in the space provided on Schedule A and report the total dollar amount on the Summary of Schedules.

INSTRUCTIONS FOR COMPLETING SCHEDULE B -- PERSONAL PROPERTY

1) Schedule B is used for reporting all the debtor's interests in personal property except executory contracts and unexpired leases. Anything the debtor owns that is not real property is considered personal property. Thus, all property in the debtor's estate that is not real property should be listed on the form.

2) A general description of the column labeled "Type of Property" is set forth below:

1. Cash on hand is limited to the amount the debtor has in his or her possession at the date the petition is filed.
2. The category "Checking, savings or other . . ." includes **all** financial accounts owned by the debtor.
3. The category "Security deposits with public utilities. . ." includes all credit accounts made with a landlord, utility (electric, gas, water, etc.), or telephone company, to secure ongoing occupancy or usage.
- 4-8. These categories require a brief description of the types of items held, rather than an itemized description of each piece of property. Courts differ in the amount and degree of detail they require concerning these items. At a minimum, a debtor should list each major appliance separately and describe furniture, bedding, clothing, and similar possessions. Anything of unusual value should be mentioned separately. The market value of each item should be totaled, and one lump sum reported for each category, unless one item is of particular value or unique in some other way.
- 9,10,12,13. Since these categories often include the rights and interests of third parties, the debtor is asked to use particular detail in describing the various interests, itemizing each particular piece of property. An "annuity" is a yearly payment of money, either for life or for a number of years.
11. ERISA-qualified pension plans are excluded from the bankruptcy estate. Patterson v. Shumate, 112 S.Ct. 2242 (1992). Accordingly, a debtor's interest in such a plan should be reported with a statement that it is not part of the estate. To avoid misleading creditors or the trustee, no dollar value should be reported. However, it is the debtor's responsibility to ascertain whether the debtor's personal pension plan is ERISA-qualified.
14. Examples of negotiable instruments include promissory notes, cashiers' checks, personal checks, and money orders. Non-negotiable instruments are those which can not be transferred simply by endorsement and/or delivery.

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- 15-17. These are debts owed to the debtor. Items 15 and 16 ask the debtor to be specific. Item 17 request the debtor to list all monies owed to the debtor that are not included in Items 15 and 16 and, specifically, any expected tax refunds.
- 18-20. These categories include interests in personal property that may or will come into the possession of the debtor in the future.
- 21-22. Intellectual property may include such items as trademarks and trade secrets. Proceeds from royalties and licensing agreements should also be included on this form. The debtor is asked to be specific.
- 23-25. The debtor should list these items specifically, giving the maker, model, and year of car(s), other vehicles and accessories, and stating product names when possible.
- 26-28. If the debtor is a business, some of these categories, such as office equipment or fixtures, may be too numerous to describe fully. If this is the case, a more general description will suffice and can be supplemented with an attached inventory.
- 29-32. These categories include animals, crops, farming equipment, farming implements, and farm supplies. Items of particular value or unique in some other way should be listed separately.
33. Any other personal property not listed above should be listed in this category.

3) The debtor must declare on the schedule whether the debtor has any property in each category listed in the column labeled "Type of Property." If the debtor has no property in one or more of the categories, the debtor should place an "X" in the column marked "None." If the appropriate category is not listed, item 33 allows the debtor to list any miscellaneous items.

4) "Itemize" means to state each item or article separately. The debtor is only required to itemize when the schedule specifies to do so, or if a particular item is unique in some way.

5) If property of the debtor is being held by someone other than the debtor, that person's name and address should be included in the column entitled "Description and Location . . ."

6) The "current market value" describes the market value on the date the petition was filed. Value is not the same as the purchase price; rather it usually is a fraction of that. "Market value," is a term that is subject to interpretation and may vary with the nature of the market for particular items. The market for used clothing and household furnishings is very different from the market for blue chip stocks. For cars, the National Automobile Dealers Association (NADA) publishes current market values. The NADA book is available at public libraries and on the Internet. The values stated should be appropriate for the property described.

7) Debtors should make sure that the market values of the items of property listed in this schedule are consistent with those stated in Schedules C and D. While certain categories, such as cash, are easy to value, the correct market value of other categories may be more difficult to pinpoint. When the debtor cannot find the market value, the debtor should state the approximate amount, based on the market for the property, and include with the schedule a statement of the method of valuation used.

8) The debtor is not asked to list exemptions or secured claims in this form. Exemptions should be listed in Schedule C and secured claims in Schedule D.

9) Executory contracts and unexpired leases should be included in Schedule G, rather than on this form. However, if the debtor is not sure which category is correct for a particular item, the debtor should list the property in both forms.

10) Debtors should complete and attach continuation sheets if more space is needed.

11) Debtors are directed to place the total dollar amount of the current market value in the space provided, including the amounts from any continuation sheets.

12) Debtors should report the total dollar amount on the Summary of Schedules.

**INSTRUCTIONS FOR COMPLETING SCHEDULE C
PROPERTY CLAIMED AS EXEMPT**

1) Individual debtors and joint debtors (individual debtors and their spouses) are entitled to claim certain property as exempt by law from the bankruptcy estate. Section 522(b) of the Bankruptcy Code gives a debtor the choice of claiming the so-called "federal bankruptcy" exemptions listed in section 522(d) or the exemptions provided under the law of the state in which the debtor resides. Section 522(b)(1), however, also authorizes any state to limit its citizens to the exemptions provided by the state. Residents of these "opt out" states may not claim the federal exemptions set forth in section 522(d), but only those authorized under state law and the various "non-bankruptcy" exemptions described below. Anyone planning to file a bankruptcy case must determine which exemptions are available, because claiming exemptions to which one is not entitled may result in the loss of the property and failing to claim an exemption to which a debtor is entitled can result in unnecessary loss of property.

The second category of exemptions are the state and other "non-bankruptcy" exemptions to which section 522(b)(2) refers. These exemptions may be contained in federal, state, or local laws. "Non-bankruptcy" simply means not contained in the Bankruptcy Code. Even in an "opt-out" state, it is important to check federal, state, and local laws, to see what exemptions are available.

Individual debtors and joint debtors should choose either the "federal bankruptcy" exemptions under section 522(b)(1), or the state and other nonbankruptcy exemptions provided for under section 522(b)(2), and place an "X" in the appropriate box at the top of the schedule. Individual debtors and joint debtors may not elect to split their exemptions between these two sections.

2) Exemptions are not available to a corporation, partnership, or any entity that is not an individual or an individual and his or her spouse. In these cases the debtor should include this form along with the rest of the schedules, with a notation of "Not Applicable."

3) The description of property on this form, as well as the market value, should correspond generally with the description on Schedule A or Schedule B. Many exemptions are limited to certain amounts of dollar value. It is important to know these limits when preparing the schedule. There also is a substantial body of case law on the subject of exemptions, which in any particular state or district may restrict or liberalize certain exemptions. A debtor should investigate the law governing exempt property in the state of residence and seek advice from a lawyer if valuable property is at stake. The location of property should not be included in this form.

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- 4) As stated above, the debtor must choose the exemption law under which exemptions are claimed and state the choice at the top of the schedule. The debtor may choose either (1) section 522(d) of the Bankruptcy Code or (2) a state statute, local statute, or a constitutional provision. If choosing the Bankruptcy Code, the debtor should state for each item or category of items the exact section of the Code where the exemption exists, for example, 11 U.S.C. § 522(d)(4). Specify the provision of the Code or the law providing each exemption in the space provided.
- 5) The value of the claimed exemption is not always the same as the current market value of the property. The debtor should check the appropriate subsection of section 522 of the Bankruptcy Code, state law, or other applicable non-bankruptcy law for financial limitations on exemptions. Debtors are asked to state the dollar value of the claimed exemption in the space provided.
- 6) Debtors are instructed to state the current market value of the property in the space marked for that purpose. Debtors should not subtract the value of the claimed exemption.

**INSTRUCTIONS FOR COMPLETING SCHEDULE D
CREDITORS HOLDING SECURED CLAIMS**

1) The purpose of this schedule is to identify those creditors holding secured claims against property of the estate and the amount owed to them. Only creditors holding secured claims as of the date of the filing of the petition should be listed. The creditors listed will have the opportunity to file a Proof of Claim (Official Form 10), which will have the legal effect of superseding any conflicting information on this schedule. The claims listed on Schedule D should include all claims secured by any type of interest in either personal property or real property, including judgment and statutory liens, garnishments, mortgages, deeds of trust, and other security interests. Although the debtor should provide the most accurate information possible, the amounts of the claims sometimes cannot be stated with exact precision. It is crucial, however, that the names and addresses of all creditors be identified to enable the trustee and creditors to get a reasonably accurate account of the holders of secured claims.

Debtors are directed to place the creditor's name, mailing address, zip code, and account number in the spaces provided, and to use continuation sheets, if necessary. If the debtor has no creditors holding secured claims, the debtor should check the box provided on Schedule D and go on to the next schedule.

2) Secured Claim --- A claim is secured if the creditor has a lien on specific property of the debtor (collateral) that gives the creditor the right to seize that particular property if the debtor defaults in making payments to the creditor. A claim is secured only to the extent to which the value of the creditor's interest in the property equals the amount of the debt. Any amount not protected by collateral is unsecured. 11 U.S.C. § 506. Examples of liens are a mortgage on real estate and a security interest in a car, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien.

The existence of a third-person guarantor of a creditor's claim does not make that claim secured.

3) A debtor should list on this form all claims that are either partially or fully secured claims. A secured claim is any claim for which the creditor holds a security interest in the debtor's property, regardless of how small.

4) The debtor is directed to place an "X" in the column labeled "Codebtor" if an entity other than a spouse may be jointly liable on a claim. Debtors filing a joint petition should designate whether the husband, wife, both of them, or the marital community may be liable on each claim, by placing a "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

- 5) Debtors are directed to state the date the claim was incurred, nature of the lien, description, and market value of the property subject to the lien in the space provided. Debtors should state the market value in dollars.
- 6) If the claim is contingent, unliquidated, or disputed, debtors should place an "X" in one or more of the appropriate columns. Otherwise, leave these columns blank. A general definition of the terms "contingent, unliquidated, or disputed" is provided below.

Definitions:

Contingent Claim --- A claim is contingent if the debtor's liability depends on the occurrence of a certain event, such as where the debtor is a cosignor on another person's loan, and that person fails to pay.

Unliquidated Claim --- An unliquidated claim is a claim the amount of which is not completely certain. The claim exists, but the amount is presently unknown. For example, a debtor may have been at fault in a car accident, but there is no judgment yet establishing the amount of the debtor's liability. The debtor will have to estimate the amount of such a claim and designate it as unliquidated.

Disputed Claim --- A claim is disputed when the debtor and creditor do not agree on the debtor's liability or on the amount of the debt.

These three columns are particularly important for the chapter 11 creditor in determining whether to file a proof of claim. 11 U.S.C. § 1111(a).

- 7) The column entitled "Amount of Claim Without Deducting..." asks the debtor to disclose, to the best of his or her knowledge, the total amount of the claim, unsecured and secured.
- 8) In the column entitled "Unsecured Portion..." the debtor should subtract the value of the collateral from the total amount of the claim, so that the secured and unsecured portions are highlighted and the same creditor need not be listed again, in Schedule F, for the unsecured part of the same claim.
- 9) Debtors should place the subtotal for the claims listed on each page — without deducting the value of the collateral — in the space provided at the bottom of each continuation sheet. Debtors should place the total of all secured claims on the last page only and report the total on the Summary of Schedules in the column marked "Liabilities."