

A BANKRUPTCY PRIMER FOR MUNICIPAL TAX OFFICIALS

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INTRODUCTION

The concept of Bankruptcy Law as we know it is a relatively modern concept. Almost until the time of the American Revolution, the response for non-payment of Debt was punitive in nature. The following example of case language is noted in Norton Bankruptcy Law and Practice 2nd Ed. (1994), a well-known treatise on the subject of bankruptcy law:

"Neither the Plaintiff at whose suit he is arrested, nor the Sheriff who took him, is bound to find him meat, drink or clothes; he must live on his own, or on the charity of others, and if no man will relieve him, let him die in the name of God..."

Manby vs. Scott, 86 Eng. Rep 781, 786
(Exch. 1659).

Fortunately today, a more enlightened approach has evolved. The evolution involved several steps. Early bankruptcy laws were created primarily to benefit Creditors. They introduced the concept of "even-handed liquidation" of a Debtor's property. The Debtor still did not obtain a release of his liabilities. Only later did the law evolve to allow discharge of liability, and later still, the "exemption" of certain property from seizure.

In the United States, the Constitution grants authority to Congress to make uniform laws governing bankruptcy. Art I, Sec 8, U.S. Const. As a consequence, bankruptcy laws are part of the Federal Law, administered through the Federal Bankruptcy Court process, and their operation is uniform throughout the United States. Under the so-called "Supremacy Clause" (Article VI) of the US Constitution, states may not regulate this area of the law, or affect the operation of the federal law.

The evolving history of the Bankruptcy Code is beyond the scope of this outline, but it should be noted that the first bankruptcy laws were passed by Congress in 1800 [2 US Stat. 19 (1800)], but were repealed three (3) years later. The "modern" bankruptcy laws were primarily adopted by a wholesale rewrite of prior laws by the Bankruptcy Act of 1898. 30 US Stat. 544 (1898). This set of laws governed bankruptcy proceedings (with various amendments along the way) until the Bankruptcy Reform Act of 1978 enacted most of the current statutory language on October 11, 1979. There have been periodic amendments since that time, the most substantial being the "Bankruptcy Abuse Prevention and Consumer Protection Act" (BAPCPA) of 2005 (Pub. L 109-8).

II STRUCTURE OF BANKRUPTCY CODE

The current language of the Federal Bankruptcy Code is found in Title 11 of the United States Code (not to be confused with "Chapter 11"). The Title is broken down into a series of "Chapters", including the well-known sections designated as "Chapter 7", "Chapter 11" and "Chapter 13". A listing of the Bankruptcy Chapters under Title 11 helps in understanding the structure of the Federal Bankruptcy law:

- Chapter 1 - General Provisions
- Chapter 3 - Case Administration
- Chapter 5 - Creditors, the Debtor and the Estate
- Chapter 7 - Liquidation
- Chapter 9 - Adjustment of Debts of Municipality
- Chapter 11 - Reorganization
- Chapter 12- Adjustment of Debts of Family Farmer or Fisherman
- Chapter 13- Adjustment of Debts of Individual
with Regular Income
- Chapter 15- Ancillary and Other Cross-Border Cases

In general, the provisions of Chapters 1, 3 and 5 apply to all cases brought in Bankruptcy Court. 11 USC § 103(a). These contain definitions, concepts and procedures which apply to all types of cases. The provisions of Chapters 7, 9, 11, 12 and 13 are intended to apply to the specific type of Debtor in bankruptcy.

Chapter 1 (which includes Sections 101 through 112) contains items such as Definitions, Rules of Construction, and the rather important provisions of Section 109 designating who may be a Debtor under each of the later Sections. The general rule requires that only a "person" (which includes corporations, partnerships) who resides, has a domicile, a place of business or property in the United States (along with municipalities) may file for Bankruptcy Protection. 11 USC §109 (a). Foreigners with no connection to the United States may not file here. A United States citizen

residing outside the country who maintains voting privileges and files tax returns using a parent's United States address was deemed eligible. In Re: Farmer, 288 B.R. 32 (Bkrtcy N.D. N.Y. 2002).

One question that recurs in the Court is whether a "trust" can be a debtor. Generally, the answer is "No". In limited circumstances a trust can argue that it is a "business trust" which functions the same as a corporation, and may therefore file bankruptcy. The New Hampshire Courts have established stringent tests for determining whether a trust is a "family trust" (and ineligible to file) or a "business trust" and eligible to file. See, In Re: BKC Realty Trust, 125 B.R. 65 (Bkrtcy. D. NH 1991). A family trust was considered one whose primary purpose was to hold property and avoid probate, while a "business trust" must be created to transact business for the benefit of investors. ID at 68.

There are also specific restrictions against certain entities being Debtors under certain Chapters. Banks, insurance companies and railroads may not "liquidate" under Chapter 7. 11 USC §109 (b). The prohibition against Chapter 7 filings includes HMO's, which are regulated as insurance companies. See, In Re: Beacon Health, 105 B.R. 178 (Bkrtcy. D. NH 1989). Only municipalities may file under Chapter 9. 11 USC §109 (c). Likewise Chapter 12 is restricted to family farmers and fishermen (as defined in such sections). 11 USC §109 (f). There are also specific restrictions on Debtors in Chapter 13, which will be covered later.

Also in Section 109 are prohibitions on immediate re-filings where a prior case was dismissed within 180 days, and the BAPCPA provisions which generally require credit

counseling before an individual can file for relief. Also in Chapter 1 are provisions regulating non-attorney preparers of bankruptcy petitions (11 USC §110) and provisions regulating non-profit credit counseling agencies. 11 USC §111.

The first part of Chapter 3 deals with commencement of bankruptcy cases. Bankruptcy cases can be started in one of two fashions, voluntarily by a Debtor (11 USC §301), or involuntarily by a Petition of Creditors. 11 USC §303. [NOTE: You may not be involuntarily placed in Chapter 13.] There are requirements for the numbers of Creditors needed to put a person into involuntary bankruptcy. A proposed Debtor may object to being "pushed" into Bankruptcy by Creditors. A hearing is then held by the Court. A person may be subject to involuntary bankruptcy if the Court finds that the Debtor is not generally paying debts as they become due unless the debts are subject to a bona fide dispute. 11 USC §303 (h). These two (2) alternative processes highlight the two (2) principals of bankruptcy; debt relief, and even-handed distribution among Creditors.

III AUTOMATIC STAY

By far the most important provisions of Chapter 3, and perhaps the whole Bankruptcy Code, are the provisions of 11 USC §362, the provision for automatic stay. This Section provides that the filing of a Bankruptcy Petition operates to "stay" i.e., stop, cease, or prevent, collection actions against the Debtor, or property of the Debtor. There are certain exceptions, found primarily in 11 USC §362 (b), but also in other Sections as well. Some of the more well known actions which are not halted by bankruptcy filing

include: (i) criminal actions, (ii) establishment of paternity, divorce, child support proceedings and collection of alimony, (iii) certain actions to enforce governmental ordinances and regulations, (iv) certain government foreclosure actions and (v) certain types of eviction proceedings.

There are several specific exceptions to the automatic stay which affect the tax collection process. They are set forth in more detail below.

Under 11 USC §362 (c) (3), in certain cases which are filed within one year of a prior bankruptcy dismissal, the stay may be limited or not effective except on specific Order of the Court. Generally the stay continues until a case is closed or dismissed, or the property at issue is no longer property of the estate (i.e. foreclosed or abandoned) unless a Motion to Life Stay is filed.

The intention of providing this "stay" of proceedings is to give the Debtor some "breathing space", and give an opportunity to evaluate the Debtor's position. One of the areas that always come into question is whether a given action may "violate" the provisions of the stay, since penalties exist for actions found to be in violation of the automatic stay.

11 USC §362 (k). The penalties can include actual damages, costs, and attorney's fees and possibility punitive damages. Id. In general, a Creditor is well advised to err on the side of complying with the stay and seeking relief (discussed below) if necessary. The Code provides that the stay is effective even without "official" notice, and that actions in violation of the stay, even innocently done, can be set aside (or penalized) as violations of the stay.

IV AUTOMATIC STAY AND TAX COLLECTION

There are three (3) specific exceptions to the Automatic Stay which impact the tax collection process. Under 11 USC §362 (b) (9) the stay does not stop tax audits, the issuance of notices of tax deficiency, or the making of assessments for taxes and the issuance of a notice for payment of the assessment. Under New Hampshire law, this means the process of assessing taxes through warrant, and the issuance of tax bills is not affected by the filing of a bankruptcy case. As is noted below, this process must be strictly limited to what the law requires, as it relates to the billing process.

The collection process is affected by two (2) other exceptions. Taxes which are overdue, but for which a lien has not been imposed, are governed by 11 USC §362 (b) (3), which allows the "perfection" or continuation of a lien which can be perfected within a period allowed by state law. Under New Hampshire law, the tax "lien" for any year arises on April 1st, the first day of the tax year. RSA 80:19; RSA 76:2. In conjunction with language in 11 USC §546 (b), the municipality may complete or "perfect" the lien it acquired the prior April 1st, even though the taxpayer may have filed after the due date. Therefore, in any given tax year, if the filing is made before December 1st (or the later actual due date), this exception allows you to proceed with the imposition of liens. In 1994 Congress added 11 USC §362 (b) (18). This specifically provides for the creation or perfection of statutory real estate tax liens for taxes which came due after the filing of the Petition. Therefore, the law does allow the imposition of a statutory tax lien for real estate taxes regardless of the filing date.

As most Collectors are now aware, the scope of these "exceptions" to the

automatic stay must be carefully complied with. In the case of Doolan vs Town of Derry, United States Bankruptcy Court, D. N.H. 09-14300-JMD, the Plaintiff/Debtors alleged that both the actual imposition of the liens, and the notices which preceded it, violated the provisions of the automatic stay. The Court analyzed all these exceptions to the stay. It first held that the exceptions to automatic stay must be read "narrowly. Id., citing, Hills Motors, Inc vs Hawaii Auto Dealer's Ass'n. 997 F. 2nd 581 (9th Cir 1990). In drawing a distinction (which the Author may disagree with) the Court held that "giving notice" of tax arrearages, or the intent to lien, is and must be separate from "attempting to collect" taxes, which is subject to the automatic stay. In general this was interpreted to mean that (for example) the Notices of Arrearage (RSA 76:11-b) can give notice of the prior unpaid taxes, but it cannot "coerce" payment by "threatening" the commencement of the tax lien procedure. Likewise the Court in Doolan held that the "Notice of Intent to Lien," and the actual imposition of tax liens did not violate the automatic stay, but language which "threatened" that a tax deed could issue was a violation. The Court determined that although certain notices must and can be given, "demand for payment" is not within the scope of the code exceptions.

The Court (Deasey, J) in Doolan acknowledges that the decision was "new" guidance for tax collectors, and so the Court included in the decision specific suggestions for Tax Collectors to follow which can avoid future violations. Based on the latter guidance, the Author, in concert with other counsel in Doolan and participants in the New Hampshire Bar Ass'n Municipal and Govt Law Section crafted

two "addendums" to be used for both Notices of Intent to Lien and Notices of Arrearage. These are found in the NHTCA Best Practices" manual and have been incorporated into various software programs. They are also attached as Exhibits A and B.

All of the foregoing relates to the imposition of the tax lien. The subsequent deeding is a different matter, covered in detail below.

V THE BASIC MECHANICS OF A CHAPTER 7 CASE

As noted in the title to the Chapter, a Debtor who files a Chapter 7 case is filing a "liquidation" case. A Debtor who files a Chapter 7 case effectively is asking to surrender all their "non-exempt" assets to be divided among their Creditors. As noted above, the filing of a Bankruptcy Petition operates as a "stay" of all proceedings against the Debtor (except those proceedings specifically exempted). Administratively, a "Trustee" is appointed for each Chapter 7 filing. By virtue of the act of filing, the appointed Trustee becomes the actual "owner" of any non-exempt property owned by the Debtor. 11 USC §541 (a). As part of the filing (except in involuntary cases), the Debtor must file schedules listing all his/her "assets and liabilities, a schedule of current income and current expenditures, and a statement of the Debtor's financial affairs." 11 USC §521 (1).

One of the reforms of the BAPCPA Act of 2005 was to establish a "means test" for Chapter 7 filers. The scope of how this applies is beyond this outline, but essentially,

if you have lots of income, and modest debts, you may not be allowed to use Chapter 7. There is now a requirement for filing of copies of prior tax returns as part of the filing process.

The Debtor must also schedule all property which the Debtor believes is exempt, i.e. that which the Code allows a Debtor to retain free of claims of Creditors. Under the Bankruptcy Code, Debtors may have an option. They can avail themselves of a series of exemptions set out in the Code or they may elect to employ exemptions available under state law. 11 USC § 522 (b). The federal exemptions are spelled out in 11 USC § 522 (d), while the state exemptions are found primarily in RSA 511, except the homestead exemption which is found in RSA 480. Under BAPCPA certain of the homestead exemptions are limited in value.

Once a Trustee has been named, an initial meeting of Creditors is established under 11 USC § 341. Typically occurring within sixty (60) days of filing, the Debtor must appear and be questioned by the Trustee, and any Creditors who wish to appear. As of October 2023, such meetings in NH are now conducted virtually via ZOOM. The examination of the Debtor can be used to "uncover" assets that may have not been listed, or income not reported. Following the meeting, the Trustee files a report with the Court advising if there is any non- exempt property available for Creditors.

It should be noted that Creditors fall into two (2) general categories; secured and unsecured. A secured Creditor is a Creditor who holds an interest in property to secure its debt (e.g. mortgage holders, lienholders on vehicles). A Debtor cannot discharge a secured debt (exception - certain transactions entered into within one (1) year and ninety

(90) days can be set aside) at least as to the amount of debt which equals the value of the collateral. Debtors in Chapter 7, who own an asset with "equity" in it, surrender it to the Trustee, who will sell it, pay off the secured lender, then distribute the equity. If there is no equity in the asset, the Trustee may "abandon" his/her interest in the asset. The Debtor must then surrender the asset to the secured Creditor, or possibly reach a "reaffirmation" agreement with the lender.

If a Creditor is not secured, then it is an "unsecured" Creditor. Certain types of unsecured debts are entitled to a rank of "priority" ahead of general unsecured debts. The priority provisions are found in 11 USC §507. Items entitled to priority payment (ahead of general unsecured claims) include administrative expenses of the actual bankruptcy process, wages due from the Debtor up to Ten Thousand and No/100ths (\$10,000.00) Dollars per person, employee benefit plans, amounts due certain farmers and fishermen, certain consumer deposits to the value of One Thousand Eight and No 100ths (\$1,800.00) Dollars, child support and alimony, most types of unsecured taxes (income, sales taxes, etc.) and finally, amounts owed to the FDIC and similar entities.

Where a bankruptcy case is filed, unless it is an involuntary case, the filer must list all of its creditors by address and amount owed. This filing "matrix" is used to send out the initial notice of a case filing. It is imperative that municipal officials who handle incoming mail be aware of such notices, and make sure a copy is routed to the Tax Collector.

In a Chapter 7 case, the initial notice will be in one (1) of two (2) forms:

- 1) A notice without a claim filing date. This is because the filing appears to show no assets available for distribution. See, Exhibit C attached.
- 2) A notice with a claim filing date. This is because it appears those may be non-exempt assets to satisfy Creditor claims. See, Exhibit D attached.

When a filing deadline is noted, generally a creditor must file a Notice of Claim even if they are listed on the Debtor's Schedule of Liabilities. In a Chapter 11, this is not the case.

As a matter of general practice, Tax Collectors often file a "Notice Claim" even if a claim deadline has not been set. A template claim form is attached as Exhibit E. You should note that:

- The amount of the claim is the balance as of the filing date.
- Real Estate Taxes are always (unless you failed to impose your tax lien) a secured debt.
- Real Estate Taxes are not a priority debt (unlike income, and sales taxes).

Unless complications arise, once the 341 meeting is over, there are two (2) further events in the process. Following a specified period of time, noticed to all Creditors, the Court issues a "Discharge" order. See, 11 USC §727. This order results in a release of the Debtor of all obligations except those the Debtor has chosen to reaffirm and those which are determined to be not dischargeable. This order is the effective "cancellation" of the debts of the Debtor, allowing a fresh start. 11 USC §727(b). A discharge is not available to a corporation, only to an "individual." Failure to complete certain personal financial management instruction

may now prevent discharge.

Certain categories of debts cannot be discharged. See, 11 USC §523. These include certain types of taxes, debts and credit obtained by fraud, debts and Creditors not reported on schedules filed by the Debtor, alimony and child support, student loans, certain types of tort awards, and others. The failure to "behave" during the case itself can result in a denial of Discharge. 11 USC §727 (a).

The "Discharge" order is different from the "closure" of the case. The closure of the case may occur close in time after the Discharge, but it may be delayed if the Trustee is still in the process of distributing assets, or attempting to recover assets. It is generally the "closure" of the case which brings to an end the automatic stay at least as to property of the estate. As a Tax Collector, the distinction between "Discharge" and "Case Closed" is critical. The automatic stay does not end until the case is closed unless Relief from the Automatic Stay is granted. No efforts to deed property can occur without case closure or stay relief.

VI RELIEF FROM STAY/ADEQUATE PROTECTION

As noted, the automatic stay stops all collection action, even those by secured Creditors. However, a secured lender has a couple of options available (Note: That a town, in collection of real estate taxes, is a "secured" Creditor, because its tax "debt" is "secured" by a "lien" on the real estate of the taxpayer): (i) A creditor can ask the Trustee to "abandon" the property (i.e., agree that he/she no longer needs to supervise it), taking it out of Court jurisdiction. 11 U.S.C. §554. If the Trustee agrees, he/she can file an "Intent

to Abandon" or a creditor may file a request with the Court to order the Trustee to abandon, or (ii) In appropriate circumstances, a Creditor may petition the Court to "lift" or remove the automatic stay. This allows the Creditor to repossess or foreclose in order to collect the debt due. See, 11 USC §362 (d). In Chapter 7 cases the two (2) most frequent grounds for relief are that (i) the Debtor has no equity in the collateral, and that it is not required for the Debtors reorganization, or (ii) due to accruing debt or decreasing collateral value, the Creditor is not "adequately protected". Motions to lift stay are directed to the Court, and may be objected to by the Debtor or the Trustee. If an objection is filed, the Court will hold a hearing on the request.

If the motion to lift stay is granted, the Creditor may repossess and sell the collateral. When the property is sold, if there are excess proceeds, they are turned over to the Trustee and/or Debtor (if exempt). If the "collateral" sells for less than what is owed, the difference, or "deficiency", then becomes an unsecured debt, subject to eventual discharge.

In the case of a municipality with a tax debt, the Town may not proceed against the property for a tax deeding unless:

- i) The Trustee "abandons" the property- Once abandoned, property is outside the protection of the stay;
- ii) The case is closed; or
- iii) A Motion for Relief of Stay is filed and granted.

A municipality would theoretically have a difficult time obtaining relief because its

lien is usually the priority lien on the property, and unless the tax liability covers several years, they probably don't approximate the value of the property. There may be rare situations where the unpaid taxes may begin to impact the fiscal integrity of a community, which might result in a finding of "good cause" for relief.

A Debtor who wishes to try to hold onto an asset may be ordered to provide "adequate protection". See, 11 USC §361. The purpose of this is to make whole a secured Creditor, where the debt may be increasing, or the collateral value decreasing. In this event, the Debtor and/or Trustee may need to make cash payments to the Creditor, in order to give the Creditor the "equivalent value" of its interest in the property [11 USC §361 (1)], or require the Debtor to provide liens on other collateral in order to provide protection for the same principal amount. 11 USC §361 (2).

VII PREFERENCES/FRAUDULENT TRANSFERS/AVOIDANCE POWERS

Several provisions of the Bankruptcy Code deal with the ability to recover property previously transferred by or taken from the Debtor. These provisions are primarily designed to aid Creditors who may have been prejudiced by other transfers by the Debtor. These transfers fall into different categories. Under the provisions of 11 USC §547 most transfers made within ninety (90) days of the filing date of the bankruptcy can be set aside as a "preference" transaction. These "preferences" are usually selective payments to Creditors, and are defined as payments to or for the benefit of a Creditor, greater than what a Creditor would receive under a Chapter 7 liquidation. 11 USC §547 (b). Transfers (or payments) made which were part of new funds or credits given to the Debtors on

transactions in "the normal course of business" are not subject to set-aside as a preference. See, 11 USC §547 (c). The preference set-aside period is extended up to one (1) year if the Creditor is considered an "insider". Preference set-asides must be brought by the Trustee, within two (2) years of the Trustee appointment, or the date the case is closed or dismissed.

A second type of avoidance is the set aside of "fraudulent" transfers. See, 111 USC §548. The statute defines "fraudulent" transfers as those you would normally think are "fraudulent" (i.e. transfers made with intent to hinder, delay or defraud), but also transfers made where the Debtor did not receive reasonably equivalent value, and the Debtor was or would become "insolvent". See, 11 USC §548 (a) (1). This is different from the preference set-aside, since preferences are subject to set-aside regardless of the Debtor's circumstances. Another difference is that on fraudulent conveyances, the potential look-back period is two (2) years. 11 USC §548 (a). This period is now extended to ten (10) years on certain transfers by a Debtor into a "self-settled" trust. 11 U.S.C. §548 (e).

This fraudulent conveyance authority has an effect on the field of municipal real estate tax collection. In the case of C.F. Realty vs. Town of Hampstead, 160 BR. 461 (1993), Judge Yacos applied the provisions of 11 USC §548 to hold that a tax "deeding" was a fraudulent conveyance, subject to set-aside. The tax deeding obviously transferred property at far less than equivalent value, and the taxpayer happened to be insolvent by virtue of the transfer. This was decided before the statute allowing former owners certain repurchase rights for a thirty-six (36) month

period following deeding. See, RSA 80:88, et seq. It was also decided before the State Supreme Court decision in Polansky vs. Town of Bedford, which required communities to return "excess proceeds" at any time. Consequently, the "premise" behind the C.F. Realty ruling may no longer be valid since the Debtor may receive "equivalent value".

The New Hampshire Bankruptcy Court has affirmed that the repurchase rights can be exercised by the Trustee (or Debtor in possession), and that, in the context of a Chapter 13 case, the payments can be spread out over the life of the Chapter 13 Plan. In Re: Stevens, 374 B.R. 31 (Bkrtcy D.N.H. 2007).

The Bankruptcy Trustee is also given the status of a lien Creditor as to all assets of the Debtor, as well as power that a Debtor might have to cancel any transfer which the Debtor could cancel for whatever reason. 11 USC §544.

Trustees are also given certain rights to seek a re-determination of tax liabilities under 11 USC § 505. This section has been cited as authority for a Bankruptcy Court to allow the filing of abatement requests even after the passage of normal statutory deadlines. See, CGE Shattuck, LLC vs Town of Jaffrey, Bkrtcy D.N.H. Adv # 00-1148-JMD.

VIII CHAPTER ELEVEN BANKRUPTCIES

The title of Chapter 11 of Title 11 is "Reorganizations". Its primary use is by business organizations, or individuals who are operating a business, to seek relief from debt, but still continue in business in some fashion. Filing can be voluntary, but Creditors can also file a Petition for Involuntary Bankruptcy of a Debtor as well.

In 2019 (effective 2/19/2020) Congress passed the Small Business Reorganization Act (SBRA) which included a new "Sub Chapter V" within Chapter 11. The goal was to provide an option for small businesses and individuals who would not qualify for Chapter 13, who wanted to reorganize (not liquidate under Chapter 7) but the traditional Chapter 11 process was too cumbersome (and expensive). The SBRA is patterned more like a Chapter 13 filing than a traditional chapter 11 filing. The SBRA provisions will be focused on below.

The key to a Chapter 11 bankruptcy is the concept of a reorganization "Plan". A Debtor who files a Chapter 11 bankruptcy is given an opportunity to file a plan to reorganize its affairs. Generally, the Creditors of a Debtor may prepare their own plan for the Debtor if the Debtor does not do so within four (4) months, or does not obtain approval of a "plan" within six (6) months. 11 USC §1121 (c). There are longer time periods for certain "small businesses". The plan and an accompanying "disclosure statement" is prepared and submitted to the Court. The disclosure statement must contain "adequate information" to inform Creditors of the affairs of the Debtor. 11 USC §1125 (b). This disclosure statement must be approved by the Court. Once approved, the statement and the proposed plan are circulated to the Creditors for their consideration. There exist complex rules for voting and accepting a proposed confirmation plan. Following the voting, a confirmation hearing is held at which the Court can approve a plan. Generally, one primary test of a plan is whether the Creditors would fare better under the plan than if the Debtor were liquidated under Chapter 7. This means that a plan might propose to pay certain class of debts in percentage. Plans can also modify the terms of certain

obligations (e.g. extend time for repayment of notes). On secured obligations, the concept of "adequate protection" still applies, and the plan must assure that the secured Creditor obtains the reasonably equivalent value of its claim, or it is subject to rejection.

One important point to be made is that, different from Chapter 7, a Trustee is not routinely appointed in Chapter 11 cases. The Debtor is statutorily granted the powers of a Trustee, being designated as a "Debtor-in-Possession". 11 USC §1107. The Debtor is generally allowed to continue to operate its business without a Court order. 11 USC §1108. A case Trustee is appointed only in those cases where there has been an allegation that the Debtor-in-Possession has committed fraud, dishonesty, or gross mismanagement. 11 USC §1104.

While there is normally no direct Trustee in a Chapter 11, there is administrative oversight through the office of the U.S. Trustee. This is an administrative position which oversees Chapter 11 cases. The US Trustee (or their representative) is the person who conducts and oversees the first meeting of Creditors under Section 341. The U.S. Trustee is required to receive regular reports on the operation of the Debtor while in Chapter 11. The U.S. Trustee has the ability (along with other interested parties) to file a request to Dismiss or "convert" a Chapter 11 case to a Chapter 7 liquidation. 11 USC §1112. Generally, dismissal or conversion is appropriate when there are continuing losses, there is no likelihood of a confirmable plan, or unreasonable delay by the Debtor. Id.

In addition to the US Trustee (and an appointed Trustee in applicable cases), there are also provisions for Committees made up of classes of creditors. 11 U.S.C. §1102. The so-called "creditor committees" can retain professionals to investigate

the Debtor and consult with the Debtor or Trustee on matters relating to the operation of the business.

Unlike a Chapter 7 liquidation, which is generally processed in only a few months, Chapter 11 cases can go on for many years. It can sometimes take longer than one (1) year to circulate, and finally approve a reorganization plan. Depending on the contents of the plan, it may take a considerable period to implement the plan. Confirmation of the plan binds the Debtor and operates as a discharge of all otherwise dischargeable debts, subject to exceptions. 11 USC §11412(d). There are provisions to modify a plan once confirmed, and to vacate confirmation if it was obtained by fraud. 11 USC §1144.

The SBRA provisions within Chapter 11 (11 USC §1181-§1198) streamlines the filing process, and eliminates many of the usual provisions. To be eligible for SBRA, generally the Debtor must have non-contingent, secured and unsecured debt of less than \$7,500,000. The Debtor remains in possession and may continue to operate their business. They have ninety (90) days to file a "plan" (unless extended for just cause), and Creditors may not file a plan. There is a US Trustee representative appointed to monitor and oversee the case, including receiving and distributing payments called for under the plan.

The plan approval process does not involve Creditor voting, but must be approved by the Bankruptcy Court under a standard of "Fair and Equitable" both as to secured and unsecured debt. A Debtor must propose payments from future earning and income to be distributed to Creditors by the US Trustee representative.

There are numerous other provisions within the SBRA sections that are beyond the scope of this outline.

IX CHAPTER 13

Chapter 13 operates in many ways like Chapter 11. Like Chapter 11, it includes the concept of the Debtor filing a plan to reorganize his/her financial affairs. Chapter 13 differs from Chapter 11 in the limitations on who may file:

- (a) It is open to individuals (not corporations or partnerships).
- (b) The individual must have "regular income".
- (c) With non-contingent liquidated debt of less than \$2,750,000.00.

11 USC §109 (e).

These limitations assure that Chapter 13 is used only by individuals who are not in business, or sole proprietors with small businesses. More substantial businesses or corporations will need to file Chapter 11 filings but may avail themselves of the new Subchapter V provisions. Commodity and stockbrokers may not file Chapter 13 plans. "Regular income" can be self-employment, and even "seasonal" as long as it is "regular".

Unlike Chapter 7 or 11 cases, Creditors may not file an involuntary Chapter 13 case. 11 USC §303 (a). Unlike all other Chapters, the filing of a Chapter 13 operates as a stay of collection against the Debtor, and certain non-filing Co-Debtors. The non-filing co-Debtor stay applies to actions for consumer debt collection only. See, 11 USC §1301.

In accordance with idea that you cannot involuntarily force a Debtor into Chapter 13, only the Debtor may file a plan. 11 USC §1321. Creditors who feel the plan is not

feasible, or who feel the Debtor is taking unreasonable time to file a plan, may move to convert the Chapter 13 case to a Chapter 7 liquidation case. 11 USC §1307. Conversion or dismissal is likewise available when a Debtor fails to abide by a plan already approved. Id.

The notice of filing of a Chapter 13 case (See, Exhibit F), includes the date of a 341 meeting as well as a Claim filing deadline. The municipality should file claims in all Chapter 13 cases if any taxes are overdue.

In Chapter 13 cases, a Trustee is appointed by the office of the U.S. Trustee to manage and administer the Chapter 13 case. He/she presides at the initial meeting of Creditors under Section 341. The Trustee is also required to make recommendations on the plan proposals of the Debtor. The Trustee's primary role is to collect plan payments made by the Debtor, and to make disbursements in accordance with the scheduled plan payments.

Like Chapter 11, the purpose of filing a Chapter 13 case is to allow a Debtor to attempt to cure defaults and/or salvage a business without submitting to the liquidation provisions of Chapter 7. By law, the plan shall/may provide:

- (a) for the Debtor to submit some portion of future earnings, to the control of the Trustee;
- (b) a classifying of the claims of the Debtor;
- (c) for modifying the rights of secured Creditors, except those secured by a mortgage on the Debtor's principal residence, provided that a plan can cure a default if regular payments are made; and
- (d) for the curing and waiving of defaults.

11 USC §1322

Although Chapter 13 does not provide for a voting process, the Court must notify all parties of the plan and hold a confirmation hearing. 11 USC §1324.

While no vote is taken, secured Creditors must either (a) accept the plan, or (b) be allowed to retain their lien, and receive comparable value, or (c) accept surrender of the collateral. 11 USC §1325 (a) (15).

Normally, a plan provides for payment of secured arrearages and then some proportionate payments to other unsecured Creditors. Those priority claims under §503 must still be satisfied ahead of other claims. Payments to the Trustee must generally be completed within three (3) years, although the Court has authority to extend this period to five (5) years. 11 USC §1322 (d).

Confirmation of the plan operates to bind the Debtor and each Creditor of the Debtor. 11 USC §1327. The Discharge of the Debtor actually comes at the end of the completion of payments under the plan. 11 USC §1328. The Discharge operates to cancel all debts except those noted in the plan to survive (e.g., secured debt) or those general types of non-dischargeable debts under other Sections of the Code. Id. There do exist provisions to advance the Discharge hearing prior to complete payment, or in the absence of complete payment, provided that payments already made at least meet the "liquidation test" of Chapter 7, i.e. the Creditors have received the amount equivalent to that which they would have received under liquidation. 11 USC §1328 (b).

X CHAPTER 13 PLANS AND TAX COLLECTION

One issue that arises in both the context of Chapter 11 and Chapter 13 plans is the issue of interest to be paid on whatever amount is owned as of the filing date. Under 11 USC §511, the rate of interest to be paid on tax claims is determined under applicable non-bankruptcy law.

Although a municipality is entitled to receive its statutory interest rate, it must be diligent to make sure it receives it! One of the issues in the Doolan case related to the fact that one of the Debtors had proposed a Chapter 13 plan which did not pay the municipality's tax claim at the statutory interest rate. When the tax collector started applying the payments toward the statutory rate, it was found to be a violation of the automatic stay, entitling the Debtors to damages. See also, In Re: Mclemore, 426 B.R. 728 (Bkrcty S. D. Ohio, 2010) (Holder of tax certificate not entitled to statutory interest, despite 11 U.S.C. §511, where no objections were filed to plan and plan was approved). Therefore it is important to read the proposed Chapter 13 (and 11) plans – send them to legal counsel- file appropriate Objections if the tax claims are not being paid with interest at the statutory rate! Otherwise the municipality may lose out on the interest it is entitled to.

EXHIBIT A

**IMPORTANT NOTICE TO ASSESSED PROPERTY OWNERS
CURRENTLY IN BANKRUPTCY**

If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362 (a) of the Bankruptcy Code, then the language of the enclosed "Notice of Tax Delinquencies" or "Notice of Arrearage" is hereby modified as follows:

- a) The enclosed Notice is a requirement of New Hampshire law in order for the Town to provide legally required notice of unpaid taxes to current property owners. By sending this Notice, the Town is not attempting to collect any delinquent property tax debt from property owner(s) in bankruptcy and the notice should not be interpreted as requiring payment.
- b) So long as the assessed property owner is in bankruptcy, a tax collector's deed cannot and will not be issued without appropriate Bankruptcy Court approval. A tax lien may be imposed, and the Town is required to give separate notice of that action.
- c) The Tax Collector or Town may not increase the rate of interest on unpaid property taxes in cases where the Court has set such rate (e.g., an approved "Plan") without seeking appropriate Bankruptcy Court approval.
- d) The provisions of federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy.

If you have any questions about the matters set forth in this special notice, you are advised to seek legal counsel from a person who is familiar with the Federal Bankruptcy Code. The tax collector's office cannot provide any legal advice.

Dated: _____

Tax Collector

Exhibit B

**IMPORTANT NOTICE TO ASSESSED PROPERTY OWNERS
CURRENTLY IN BANKRUPTCY**

If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362 (a) of the Bankruptcy Code, then the language of the enclosed "Notice of Impending Lien" or "Impending Lien Notice" is hereby modified as follows:

- a) The Notice of Impending Tax Lien is a requirement of New Hampshire law in order for the Town to perfect its statutory lien. By sending this notice, the Town is not attempting to collect any delinquent property tax debt from property owner(s) in bankruptcy and the notice should not be interpreted as requiring payment.
- b) So long as the assessed property owner is in bankruptcy, a tax collector's deed cannot and will not be issued without appropriate Bankruptcy Court approval.
- c) The Tax Collector or Town may not increase the rate of interest on unpaid property taxes in cases where the Court has set such rate (e.g., an approved "Plan") without seeking appropriate Bankruptcy Court approval.
- d) The provisions of federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy.

If you have any questions about the matters set forth in this special notice, you are advised to seek legal counsel from a person who is familiar with the Federal Bankruptcy Code. The Tax Collector's office cannot provide any legal advice.

Dated: _____

Tax Collector

EXHIBIT C

Information to identify the case:

Debtor 1	_____	_____	_____	Last 4 digits of Social Security number or ITIN _____
	First Name	Middle Name	Last Name	EIN _____ - _____
Debtor 2 (Spouse, if filing)	_____	_____	_____	Last 4 digits of Social Security number or ITIN _____
	First Name	Middle Name	Last Name	EIN _____ - _____
United States Bankruptcy Court for the: _____	District of _____			[Date case filed for chapter 7 _____
	(State)			_____ MM / DD / YYYY OR
Case number: _____				[Date case filed in chapter _____
				_____ MM / DD / YYYY
				Date case converted to chapter 7 _____
				_____ MM / DD / YYYY

Official Form 309A (For Individuals or Joint Debtors)

Notice of Chapter 7 Bankruptcy Case — ~~No Proof of Claim Deadline~~ 10/20

For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors or the debtors' property. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at <https://pacer.uscourts.gov>).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

<p>6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at https://pacer.uscourts.gov.</p>	<p>Hours open _____ Contact phone _____</p>
<p>7. Meeting of creditors Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.</p>	<p>_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>
<p>8. Presumption of abuse If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.</p>	<p>[The presumption of abuse does not arise.] [The presumption of abuse arises.] [Insufficient information has been filed to permit the clerk to determine whether the presumption of abuse arises. If more complete information is filed and shows that the presumption has arisen, the clerk will notify creditors.]</p>
<p>9. Deadlines The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>File by the deadline to object to discharge or to challenge whether certain debts are dischargeable: Filing deadline: _____</p> <p>You must file a complaint: if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).</p> <p>You must file a motion if you assert that the discharge should be denied under § 727(a)(8) or (9).</p> <hr/> <p>Deadline to object to exemptions: _____ Filing deadline: 30 days after the conclusion of the meeting of creditors</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>
<p>10. Proof of claim Please do not file a proof of claim unless you receive a notice to do so!</p>	<p>No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.</p>
<p>11. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>
<p>12. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at https://pacer.uscourts.gov. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.</p>

EXHIBIT D

Information to identify the case:

<p>Debtor 1</p> <p>_____</p> <p>First Name Middle Name Last Name</p>	<p>Last 4 digits of Social Security number or ITIN _____</p> <p>EIN _____ - _____ - _____</p>
<p>Debtor 2 (Spouse, if filing)</p> <p>_____</p> <p>First Name Middle Name Last Name</p>	<p>Last 4 digits of Social Security number or ITIN _____</p> <p>EIN _____ - _____ - _____</p>
<p>United States Bankruptcy Court for the: _____ District of _____</p> <p>(State)</p>	<p>[Date case filed for chapter 7 _____ MM / DD / YYYY OR</p> <p>[Date case filed in chapter _____ MM / DD / YYYY</p> <p>Date case converted to chapter 7 _____ MM / DD / YYYY]</p>
<p>Case number: _____</p>	

Official Form 309B (For Individuals or Joint Debtors)

Notice of Chapter 7 Bankruptcy Case — ~~Proof of Claim Deadline Set~~ 10/20

For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors or the debtors' property. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at <https://pacer.uscourts.gov>).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

<p>6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at https://pacer.uscourts.gov.</p>	<p>Hours open _____ Contact phone _____</p>
<p>7. Meeting of creditors Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.</p>	<p>_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>
<p>8. Presumption of abuse If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.</p>	<p>[The presumption of abuse does not arise.] [The presumption of abuse arises.] [Insufficient information has been filed to permit the clerk to determine whether the presumption of abuse arises. If more complete information is filed and shows that the presumption has arisen, the clerk will notify creditors.]</p>
<p>9. Deadlines The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>File by the deadline to object to discharge or to challenge whether certain debts are dischargeable: Filing deadline: _____</p> <p>You must file a complaint:</p> <p><input type="checkbox"/> if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or</p> <p><input type="checkbox"/> if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).</p> <p>You must file a motion:</p> <p><input type="checkbox"/> if you assert that the discharge should be denied under § 727(a)(8) or (9).</p> <p>Deadline for all creditors to file a proof of claim (except governmental units): Filing deadline: _____</p> <p>Deadline for governmental units to file a proof of claim: Filing deadline: _____</p> <p>Deadlines for filing proof of claim: A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at www.uscourts.gov or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed. Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p> <p>Deadline to object to exemptions: Filing deadline: 30 days after the conclusion of the meeting of creditors The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>
<p>10. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>
<p>11. Liquidation of the debtor's property and payment of creditors' claims</p>	<p>The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them in the order specified by the Bankruptcy Code. To ensure you receive any share of that money, you must file a proof of claim as described above.</p>
<p>12. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at https://pacer.uscourts.gov. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.</p>

EXHIBIT E

Fill in this information to identify the case:

Debtor 1 _____
Debtor 2 _____
(Spouse, if filing)
United States Bankruptcy Court for the: _____ District of _____
Case number _____

Official Form 410

Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	Town of Smalltown, New Hampshire Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? John Q. Taxcollector Town of Smalltown Name 1 Main Street Number Street Smalltown NH 03*** City State ZIP Code Contact phone 603-***-**** Contact email Tax\$\$\$@smalltownnh.gov	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____	Filed on _____ MM / DD / YYYY
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: Map Blk Lot

7. How much is the claim? \$ amount due on filing Does this amount include interest or other charges? No Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.
Real Estate (Ad Valorum) Taxes

9. Is all or part of the claim secured? No Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*. Tax Lien
 Motor vehicle
 Other. Describe: _____
Basis for perfection: RSA 80:19 - see attached tax lien (if applicable)
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ (equalized assessed value)
Amount of the claim that is secured: \$ all
Amount of the claim that is unsecured: \$ none (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) 8/14 %
 Fixed
 Variable

10. Is this claim based on a lease? No Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Amount entitled to priority:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date _____
MM / DD / YYYY

Signature John Q. Taxcollector

Print the name of the person who is completing and signing this claim:

Name John Q Taxcollector
First name Middle name Last name

Title Tax Collector- Town of Smalltown

Company Town of Smalltown
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 1 Main Street
Number Street

Smalltown NH 03***
City State ZIP Code

Contact phone 603-***-**** Email tax\$\$\$@smalltownnh.gov

EXHIBIT F

Information to identify the case:

Debtor 1	_____	_____	_____	Last 4 digits of Social Security number or ITIN _____
	First Name	Middle Name	Last Name	EIN _____
Debtor 2 (Spouse, if filing)	_____	_____	_____	Last 4 digits of Social Security number or ITIN _____
	First Name	Middle Name	Last Name	EIN _____
United States Bankruptcy Court for the:	_____ District of _____			[Date case filed for chapter 13 _____
	(State)			MM / DD / YYYY OR
Case number:	_____			[Date case filed in chapter _____
				MM / DD / YYYY
				Date case converted to chapter 13 _____
				MM / DD / YYYY

Official Form 3091

Notice of Chapter 13 Bankruptcy Case

10/20

For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at <https://pacer.uscourts.gov>).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

About Debtor 1:	About Debtor 2:
1. Debtor's full name	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at https://pacer.uscourts.gov .	Hours open _____ Contact phone _____

For more information, see page 2 ►

<p>7. Meeting of creditors</p> <p>Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.</p> <p>Creditors may attend, but are not required to do so.</p>	<p>_____ at _____ Date Time</p>	<p>Location: _____</p>	
<p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>			
<p>8. Deadlines</p> <p>The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p>Deadline to file a complaint to challenge dischargeability of certain debts:</p> <p>You must file:</p> <p>a motion if you assert that the debtors are not entitled to receive a discharge under 11 U.S.C. § 1328(f), or</p> <p>a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).</p>	<p>Filing deadline: _____</p>	
<p>Deadline for all creditors to file a proof of claim (except governmental units):</p>			<p>Filing deadline: _____</p>
<p>Deadline for governmental units to file a proof of claim:</p>			<p>Filing deadline: _____</p>
<p>Deadlines for filing proof of claim:</p> <p><u>A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at www.uscourts.gov or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed.</u></p> <p>Secured creditors retain rights in their collateral regardless of whether they file a proof of claim.</p> <p>Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p>			
<p>Deadline to object to exemptions:</p> <p>The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>			<p>Filing deadline: 30 days after the conclusion of the meeting of creditors</p>
<p>9. Filing of plan</p>	<p>[The debtor has filed a plan, which is attached. The hearing on confirmation will be held on: _____ at _____ Date Location: Time]</p> <p><u>Or</u> [The debtor has filed a plan. The plan and notice of confirmation hearing will be sent separately.]</p> <p><u>Or</u> [The debtor has not filed a plan as of this date. A copy of the plan and a notice of the hearing on confirmation will be sent separately.]</p>		
<p>10. Creditors with a foreign address</p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadline in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>		
<p>11. Filing a chapter 13 bankruptcy case</p>	<p>Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts according to a plan. A plan is not effective unless the court confirms it. You may object to confirmation of the plan and appear at the confirmation hearing. A copy of the plan [is included with this notice] or [will be sent to you later], and [the confirmation hearing will be held on the date shown in line 9 of this notice] or [the court will send you a notice of the confirmation hearing]. The debtor will remain in possession of the property and may continue to operate the business, if any, unless the court orders otherwise.</p>		
<p>12. Exempt property</p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at https://pacer.uscourts.gov. If you believe that the law does not authorize an exemption that debtors claimed, you may file an objection by the deadline.</p>		
<p>13. Discharge of debts</p>	<p>Confirmation of a chapter 13 plan may result in a discharge of debts, which may include all or part of a debt. However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1328(f), you must file a motion by the deadline.</p>		