Tax Return Filing and Tax Claim Procedures

1. Tax Return Filing Requirements

Pursuant to 11 U.S.C. § 1308, a Chapter 13 debtor is required to file all tax returns that became due during the four-year period preceding the date of the first scheduled meeting of creditors.

To ensure compliance with this requirement, the Trustee's Office will review available tax information and proofs of claim to determine whether all required tax returns have been filed.

2. Motions to Dismiss for Failure to File Tax Returns

Pursuant to 11 U.S.C. § 1307(e), upon the failure of a debtor to file a tax return required under § 1308, and upon request of a party in interest or the United States Trustee, after notice and a hearing, the Court shall dismiss the Chapter 13 case.

Accordingly, the Trustee's Office will file a Motion to Dismiss in any case in which a proof of claim or other information indicates that the debtor has failed to file one or more tax returns that were due during the four-year period preceding the first scheduled meeting of creditors.

Consistent with the Trustee's continuance policy, the Trustee's Office will consent to one continuance of the hearing on the Motion to Dismiss to allow the debtor an opportunity to resolve the outstanding tax filing requirements.

At any subsequent hearing, however, the Trustee's Office will proceed on the Motion to Dismiss unless satisfactory evidence establishing compliance has been provided.

The Trustee's Office will rely upon the plain language of 11 U.S.C. § 1307(e), which provides that the Court "shall dismiss" a case upon the statutory conditions being satisfied.

3. Acceptable Evidence of Tax Return Filing

The following documentation may be provided as evidence that a required tax return has been filed:

1. A signed copy of the filed tax return;
2. A tax transcript demonstrating that the return was filed; or
3. An amended proof of claim indicating that the applicable tax return has been filed and updating the claim accordingly.

Debtor's counsel should provide the appropriate documentation to the Trustee's Office as soon as the outstanding filing requirement has been resolved.

4. Estimated Tax Claims and Plan Funding

The Trustee's Office will also review tax claims to determine whether a Chapter 13 plan is adequately funded.

The Trustee's Office will object to confirmation when a proposed plan is underfunded based upon estimated tax claims, including claims attributable to tax returns that have not yet been filed.

The Trustee's Office will recommend confirmation only after the plan has been properly funded. Proper funding may be established through either:

- Increased plan funding; or
- An amended proof of claim that accurately reflects the debtor's filed tax returns and the resulting tax liability.

5. Payment of Allowed Tax Claims After Confirmation

If a Chapter 13 plan has already been confirmed, the Trustee's Office will make payments on allowed proofs of claim in accordance with the confirmed plan, even when a claim indicates that it includes estimated amounts attributable to unfiled tax returns.

The Trustee's Office will make a concerted effort to notify debtor's counsel when payments on such claims begin. However, debtor's counsel is encouraged to address and resolve estimated tax claims as soon as possible to ensure that the claims accurately reflect the debtor's actual tax liabilities and that the Chapter 13 plan remains properly funded.