

NOTICE REGARDING TAX REFUNDS IN CHAPTER 13 CASES

On March 12, 2010, the Judges of the United States Bankruptcy Court for the Eastern District of Michigan issued a Notice that in all Chapter 13 cases where the Plan has not yet been confirmed and in which the Plan provides for payment of tax refunds to the Trustee, the debtor shall sign, as requested by the Trustee, IRS forms to authorize the IRS to forward those tax refunds directly to the Trustee.

The Chapter 13 Trustees have discussed this requirement and have adopted the following forms and processes to implement this new Notice.

Please note the following:

1. The required IRS Form is Form 2848 – Power of Attorney and Declaration of Representative. This Form can currently be found on the IRS web site at <http://www.irs.gov/pub/irs-pdf/f2848.pdf>. The Chapter 13 Trustees will bring to the First Meetings of Creditors Form 2848 that has been customized by the Trustees for this purpose. The Trustees request that the Debtor(s) fill in the following blanks:
 - Taxpayer Name(s)
 - Taxpayer Address(s)
 - Social Security Number(s)
 - Daytime Phone Number
 - If Debtors want additional Representatives, that information should be added in Paragraph 2 following the listing of the Chapter 13 Trustee. The Chapter 13 Trustee must be the first Representative listed in Paragraph 2.
 - Debtor(s) initial the blank in Box 6
 - Debtor(s) sign and print their names in Box 9 of the Form 2848 where indicated.

The completed Form 2848 is to be returned to the Trustee at the First Meeting of Creditors. Because of the mandate issued by the Court, the Chapter 13 Trustees will not hold or conclude the First Meeting of Creditors where the Debtor fails to provide the fully completed and signed Form 2848.

2. Married Debtors. Married Debtors who file joint tax returns with their spouses must have the Form 2848 signed by the spouse whether or not that spouse is also a debtor in bankruptcy. Form 2848 is not valid for jointly filed tax returns unless signed by both spouses.
3. Prior Form 2848 Powers. The Chapter 13 Trustees recognize that some Debtors may already have filed a Form 2848. If the Debtor wants a prior Form 2848 to remain in force and effect, the Debtor should provide a copy of the prior Form 2848 to the Chapter 13 Trustee along with this Form 2848 designating the Trustee as “Representative” and should check Box 8 on the Form 2848. Pursuant to Internal Revenue Service Regulations, failure to either check Box 8 or to provide a copy of the prior Form 2848 will result in the automatic revocation of all prior Forms 2848.

4. Transition period until April 15, 2010. For cases having First Meetings of Creditors or Confirmation Hearings scheduled up to and including April 15, 2010, the Trustees ask that the Form 2848 be completed by Debtor as referenced in Paragraph 1 above and provided to the Chapter 13 Trustee at the earlier of the First Meeting of Creditors or the Confirmation Hearing. A sample of the completed Form 2848 is available on the web pages of each of the Chapter 13 Trustees.
5. After April 15, 2010. For cases having the First Meeting of Creditors scheduled after April 15, 2010, Debtors may either present the completed Form 2848 at the First Meeting of Creditors or Counsel may provide the fully completed Form 2848 to the Chapter 13 Trustee's Office by e-mail. If Counsel elects to provide the Form 2848 by e-mail, the Trustees ask that Counsel do so at the same time and in the same manner as Counsel provides the requisite Pay Stubs and Tax Returns. If Counsel has a prior Form 2848 that Counsel does not want revoked, Counsel should provide that prior Form 2848 at the same time.

The Chapter 13 Trustees understand and appreciate that this represents a significant shift in pre-First Meeting of Creditor processes. We are working to make the process as easy and efficient as possible. If you have any questions or suggestions, please forward those to the Chapter 13 Trustees.

Thank you.

Krispen Carroll, Chapter 13 Trustee
Tammy L. Terry, Chapter 13 Trustee
David Wm. Ruskin, Chapter 13 Trustee
Carl Bekofske, Chapter 13 Trustee
Tom McDonald, Chapter 13 Trustee

March 25, 2010