

Appendix H

Means Test

What is the means test?

You may have read that the new bankruptcy law imposes a "means test" on who can file for Chapter 7 bankruptcy.

You might think this new test will prevent you from filing. But, chances are, you're wrong. Most people considering bankruptcy have no trouble passing the means test. Indeed, some lawyers think *more* people will qualify for Chapter 7 under this test than under the old law, where judges had no fixed formula.

Use this calculator find out where you stand.

The Formula

The law now uses a standard mathematical formula to determine whether you can file for Chapter 7 -- or, to put it in legal terms, whether filing for Chapter 7 would be an 'abuse' of the bankruptcy system. (Those who fail the means test, are left with a Chapter 13 repayment plan as their only bankruptcy option.)

The means test is actually a two-part test and you only need to pass one of them to qualify for Chapter 7.

Test 1. "Median Income"

This is a very simple test that compares your average household income for the past six calendar months to the median income for your state. If your income is below the median, you qualify for Chapter 7. If it is above the median, you must pass Test 2.

Test 2. "Disposable Income"

This test deducts expenses from your income to determine how much you can pay your *unsecured creditors* over the next five years:

- If you can pay at least \$11,725 (\$195.42 per month), you can't file for Chapter 7.
- If you can pay at least \$7,025 (about \$117 per month) and that is at least 25% of what you currently owe your unsecured creditors, you can't file for Chapter 7.
- If your disposable income is less than \$117 per month, you can file for Chapter 7.

Certain deductions are standard allowances based on the number of vehicles you operate, the number of people in your household, and the cost of living in.

In addition, to these standard deductions, you can also deduct the full amount of certain *actual* expenses such as mortgage and vehicle loan payments.

How long does this take?

Using this calculator takes about 20 minutes. For some, the answer may be obvious after only a few questions.

Garbage in, garbage out

If you don't put in the correct numbers in the correct blanks, this calculator won't give you an accurate result. It only does the math. It is your responsibility to put the right numbers in the right blanks. Helpful resources are available throughout the test to help you figure out what the form is asking for and what to put where.

Be sure to account for all the different kinds of income you receive. If you're not sure what to put in an 'expense' blank, skip it. You may find that it doesn't matter -- that is, you may qualify regardless of what number you put in that blank.

If you need assistance, this website has listings of **books** and local **services** that offer bankruptcy help.

Where to find the Official Means Test form

If you end up actually filing for Chapter 7 bankruptcy you need to fill out **official form (22A)**, which you can find **here**. This calculator is based on that form.

Census Bureau, IRS Data and Administrative Expenses Multipliers

(Cases Filed On or After May 1, 2014)

Section I. Census Bureau Data

In Part III of Bankruptcy Form 22A and Part II of Bankruptcy Form 22C, debtors are instructed to enter the "Applicable median family income". This information is published by the Census Bureau according to State and family size, and the data is updated each year. In addition, pursuant to 11 U.S.C. § 101(39A)(B), the data on this Web site will be further adjusted early each calendar year based upon the Consumer Price Index for All Urban Consumers (CPI).

The following link provides the median family income data published in September 2013 and CPI-adjusted in January 2014, reproduced in a format that is designed for ease of use in completing these bankruptcy forms.

Median Family Income Based on State/Territory and Family Size

Available for download in MS Excel format. [[XLS - 38 KB](#)] [[XLSX - 15 KB](#)]

Section II. IRS Data & General Information for Completing Bankruptcy Forms

Note: The IRS expense figures posted on this Web site are for use in completing bankruptcy forms. They are not for use in computing taxes or for any other tax administration purpose. Expense information for tax purposes can be found on the [IRS Web site](#). In addition, the following language is taken directly from the IRS Collection Financial Standards available at the IRS Website noted above. The IRS Collection Financial Standards use the word "taxpayer" and this reference has been unchanged for purposes of publishing the Standards for use in bankruptcy cases.

1. General Information Regarding IRS Collection Financial Standards

Collection Financial Standards are used to help determine a taxpayer's ability to pay a delinquent tax liability. Allowable living expenses include those expenses that meet the necessary expense test. The necessary expense test is defined as expenses that are necessary to provide for a taxpayer's (and his or her family's) health and welfare and/or production of income.

National Standards for food, clothing and other items apply nationwide. Taxpayers are allowed the total National Standards amount for their family size, without questioning the amount actually spent.

National Standards have also been established for minimum allowances for out-of-pocket health care expenses. Taxpayers and their dependents are allowed the standard amount on a per person basis, without questioning the amount actually spent.

Maximum allowances for housing and utilities and transportation, known as the Local Standards, vary by location. In most cases, the taxpayer is allowed the amount actually spent, or the local standard, whichever is less.

Generally, the total number of persons allowed for necessary living expenses should be the same as those allowed as exemptions on the taxpayer's most recent year income tax return.

If the IRS determines that the facts and circumstances of a taxpayer's situation indicate that using the standards is inadequate to provide for basic living expenses, we may allow for actual expenses. However, taxpayers must provide documentation that supports a determination that using national and local expense standards leaves them an inadequate means of providing for basic living expenses.

2. National Standards: Food Clothing & Other Items

National Standards have been established for five necessary expenses: food, housekeeping supplies, apparel and services, personal care products and services, and miscellaneous.

The standards are derived from the Bureau of Labor Statistics (BLS) Consumer Expenditure Survey (CES). The survey collects information from the Nation's households and families on their buying habits (expenditures), income and household characteristics.

Available for download in MS Excel format. [[XLS - 32 KB](#)] [[XLSX - 12 KB](#)]

3. National Standards: Out-of-Pocket Health Care Expenses

Out-of-Pocket Health Care standards have been established for out-of-pocket health care expenses including medical services, prescription drugs, and medical supplies (e.g. eyeglasses, contact lenses, etc.).

The table for health care allowances is based on Medical Expenditure Panel Survey data and uses an average amount per person for taxpayers and their dependents under 65 and those individuals that are 65 and older.

The out-of-pocket health care standard amount is allowed in addition to the amount taxpayers pay for health insurance.

Available for download in MS Excel format. [[XLS - 23 KB](#)] [[XLSX - 10 KB](#)]

4. Local Standards. Housing and Utilities and Transportation

a. Housing and Utilities Standards are derived from Census and BLS data, and are provided by state down to the county level. The standard for a particular county and family size includes both housing and utilities allowed for a taxpayer's primary place of residence.

Housing and Utilities standards include mortgage or rent, property taxes, interest, insurance, maintenance, repairs, gas, electric, water, heating oil, garbage collection, telephone, cell phone, internet, and cable. The tables include five categories for one, two, three, four, and five or more persons in a household.

Note: Effective October 3, 2011, the IRS no longer provides Housing and Utilities Standards for the U.S. territories of Guam, the Northern Mariana Islands, and the Virgin Islands.

Available for download in MS Excel format. [[XLS - 1.35 MB](#)] [[XLSX - 667 KB](#)]

b. Transportation Expense Standards for taxpayers with a vehicle consist of two parts: nationwide figures for monthly loan or lease payments referred to as ownership costs, and additional amounts for monthly operating costs broken down by Census Region and Metropolitan Statistical Area (MSA). A conversion chart has been provided with the standards that lists the states that comprise each Census Region, as well as the counties and cities included in each MSA. The ownership cost portion of the transportation standard, although it applies nationwide, is still considered part of the Local Standards.

The ownership costs provide maximum allowances for the lease or purchase of up to two automobiles if allowed as a necessary expense. A single taxpayer is normally allowed one automobile.

The operating costs include maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking and tolls.

If a taxpayer has a car payment, the allowable ownership cost added to the allowable operating cost equals the allowable transportation expense. If a taxpayer has a car, but no car payment, only the operating costs portion of the transportation standard is used to figure the allowable transportation expense. In both of these cases, the taxpayer is allowed the amount actually spent, or the standard, whichever is less.

There is a single nationwide allowance for public transportation based on BLS expenditure data for mass transit fares for a train, bus, taxi, ferry, etc. Taxpayers with no vehicle are allowed the standard, per household, without questioning the amount actually spent.

If a taxpayer owns a vehicle and uses public transportation, expenses may be allowed for both, provided they are needed for the health, and welfare of the taxpayer or family, or for the production of income. However, the expenses allowed would be actual expenses incurred for ownership costs, operating costs and public transportation, or the standard amounts, whichever is less.

Available for download in MS Excel format. [[XLS - 27 KB](#)] [[XLSX - 11 KB](#)]

Section III. Administrative Expenses Multipliers

11 U.S.C. § 707(b)(2)(A)(ii)(III) allows a debtor who is eligible for chapter 13 to include in his/her calculation of monthly expenses the actual administrative expenses of administering a chapter 13 plan in the judicial district where the debtor resides.

The Executive Office for U.S. Trustees issues the schedules of actual administrative expenses which contain, by judicial district, the chapter 13 multiplier needed to complete Official Bankruptcy Forms 22A and 22C (Statement of Current Monthly Income and calculations). Form 22A is the form most chapter 7 debtors will complete and the multiplier is entered on Line 45.b; Form 22C is the form most chapter 13 debtors will complete and the multiplier is entered on Line 50.b.

Schedules of Actual Administrative Expenses of Administering a Chapter 13 Plan (as Required by 11 U.S.C. § 707(b)(2)(A)(ii)(III))

Available for download in MS Excel format. [[XLS - 30 KB](#)] [[XLSX - 14 KB](#)]

Note:

The original source for the [State Median Family Income](#) is the [Census Bureau](#).

The original source for the [National and Local Standards](#) is the [IRS](#).

To report any differences between the data on these pages and their original source, please e-mail: ust.mt.help@usdoj.gov.

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(Cases Filed On or After May 1, 2014)

Note:The IRS expense figures posted on this Web site are for use in completing bankruptcy forms. They are not for use in computing taxes or for any other tax administration purpose. Expense information for tax purposes can be found on the [IRS Web Site](#).

Collection Financial Standards for Food, Clothing and Other Items

Expense	One Person	Two Persons	Three Persons	Four Persons
Food	\$315	\$588	\$660	\$794
Housekeeping supplies	\$30	\$66	\$65	\$74
Apparel & services	\$88	\$162	\$209	\$244
Personal care products & services	\$34	\$61	\$64	\$70
Miscellaneous	\$116	\$215	\$251	\$300
Total	\$583	\$1,092	\$1,249	\$1,482
More than four persons			Additional Amount Per Person	
For each additional person, add to four-person total allowance:			\$298	

Bankruptcy Allowable Living Expenses – National Standards (See 11 U.S.C. § 707(b)(2)(A)(ii)(I))

Expense	One Person	Two Persons	Three Persons	Four Persons
Food & Clothing (Apparel & Services)*	\$403	\$750	\$869	\$1,038
5% of Food & Clothing	\$20	\$38	\$43	\$52
More than four persons			Additional Amount Per Person	
Food & Clothing (Apparel & Services)*				\$209
5% of Food & Clothing				\$10

* This total may differ from the combination of the two amounts on the table above due to rounding.

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