



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII**

1132 Bishop Street, Suite 250
Honolulu, HI 96813
(808) 522-8100
www.hib.uscourts.gov

March 30, 2021

NOTICE OF PROPOSED AMENDMENTS

The following amendments are issued for comment. Included is a proposed change to the Chapter 13 Attorney Fee Guidelines. Please note that the Guidelines, dollar amounts, and related procedures are under review. At a later date, further changes will be proposed in addition to the item below involving a Motion to Modify Confirmed Plan.

- **Chapter 13 Attorney Fee Guidelines:** The presumptively reasonable (“no-look”) amount that may be allowed for a motion to modify a confirmed plan is set at \$1,000. (*Note: The amount was increased from \$300 to \$1,000 in a general order issued April 23, 2020 although the Chapter 13 Attorney Fee Guidelines were not revised.*)
- **Chapter 13 Plan (Local Form H113):** Section 2.3 will be amended to make the submission of tax refunds as supplemental plan payments a voluntary contribution. This does not affect plans already confirmed. Removing tax refund contributions from a current plan would require a plan modification.
- **LBR 3070-2. Chapter 13 - Distributions:** Subdivision (c) will be amended to no longer provide that an untimely filed claim, without objection, will not receive distributions.
- **LBR 3070-2. Chapter 13 - Distributions:** A new subdivision (j)(4) addresses the payment of debtor’s attorney fees in a case dismissed or converted before confirmation.

Any comments should be sent to michael_dowling@hib.uscourts.gov by April 16, 2021.

Chapter 13 Attorney Fee Guidelines
Part 2: Fee Schedule - Subsequent Services

Current	Proposed
<p>a. Motions to Modify Confirmed Plan: Services related to preparing and filing a motion to modify a confirmed plan. Fees are limited to motions filed <i>more than one year after the date the petition is filed or the case is converted, whichever is later</i>. Motions to modify plan filed before that deadline are included in the initial fees allowed. Amount: \$300.</p>	<p>a. Motions to Modify Confirmed Plan: All services related to preparing, filing, and prosecuting a motion to modify a confirmed plan (including all amendments to such a motion) that is filed more than one year after the date the petition is filed or the case is converted, whichever is later. (Motions to modify plan filed before that date are included in the fees allowed under Part 1.). Amount: \$1,000.</p>
<p><i>Note: The amount was increased from \$300 to \$1,000 in a general order issued April 23, 2020 although the Chapter 13 Attorney Fee Guidelines were not revised.</i></p>	

Chapter 13 Plan (Local Form H113)
Section 2.3

Current	Proposed
<p>Income tax refunds. Debtor must give the trustee a copy of each income tax return filed during the plan term within 14 days after filing the return and must turn over to the trustee all income tax refunds received during the plan term, except to the extent that a refund is exempt, received on account of a child tax credit or earned income credit, or subject by law to setoff, recoupment, or similar disposition, to the extent permitted under 11 U.S.C. § 553.</p>	<p>Income tax refunds.</p> <p><input type="checkbox"/> Debtor will submit annually as supplemental plan payments all income tax refunds received during the plan term, except to the extent that a tax refund is exempt, received on account of a child tax credit or earned income credit, or subject by law to setoff, recoupment, or similar disposition, to the extent permitted under 11 U.S.C. § 553. Within 14 days after filing, debtor must provide trustee a copy of each income tax return filed and, if requested, the statement described in 11 U.S.C. § 521(f)(4).</p> <p><input type="checkbox"/> Debtor will retain any income tax refunds received during the plan term but must submit to trustee any information requested under 11 U.S.C. § 512(f).</p>

LBR 3070-2. Chapter 13 - Distributions

Current	Proposed
<p>(c) Untimely Claims. Unless the court orders otherwise, claims filed after the time periods stated in Bankruptcy Rule 3002(c) will not receive distributions under the plan. The court may consider a stipulation to allow an untimely claim without notice to other creditors if executed by the debtor and the trustee.</p>	<p>(c) Untimely Claims. The court may consider a stipulation to allow an untimely claim without notice to other creditors if executed by the claimant, debtor, and the trustee.</p>
<p>n/a</p>	<p>(j) (4) Payment of Attorney Fees in Cases Dismissed or Converted Before Confirmation. In a case that is dismissed or converted prior to confirmation, debtor's counsel may seek a distribution from plan payments held by the trustee by filing, not later than 14 days after the dismissal or conversion, a fee application supported by time records. The trustee is authorized to retain sufficient funds to pay a pending fee application before refunding funds to the debtor.</p>