

Projected Disposable Income in Chapter 13

In determining "**projected disposable income**" for the purposes of creating a chapter 13 bankruptcy plan, how do we deal with debtors whose incomes have changed? Can we just disregard that huge bonus you received; or what happens when your income goes up, or down during your bankruptcy? How should we deal with that car you own outright? For answers to these questions we turn to recent case law.

The court in *Ransom v. MBNA* ([In re Ransom](#), 577 F.3d 1026 (9th Cir. Aug., 2009)) held that an above-median income debtor seeking bankruptcy relief under chapter 13 cannot deduct from his disposable income, a vehicle 'ownership cost' for a vehicle he owns free and clear, that would otherwise be income available to unsecured creditors. The *Ransom* case is one example of the court's plain reading of the statute in 11 U.S.C. Section 707(b)(2) that an ownership cost is not an 'expense.'

The 10th Circuit court reviewed the issue of whether 'projected disposable income' for purposes of chapter 13 plan confirmation should be obtained using the "mechanical test" set forth in the Code, or a "forward looking approach." The holding from [In re Lanning](#), 545 B.R. 1269 (10th Cir. November, 2008) says, "**The mechanical approach 'subject to a showing of substantial change in circumstances,' in other words the forward looking approach.**" The Solicitor General has filed an invitation brief with the Supreme Court in the [In re Lanning](#) case. This case is currently pending before the Supreme Court. We are forward-looking to the outcome after the Supreme Court's review.

This issue is of national concern as [Craig Anderson](#) points out in his blog article, "[Projected Disposable Income](#)" in [Chapter 13 Cases: Rearview Mirror, or Crystal Ball?](#) posted at the [Bankruptcy Law Network](#). What these cases mean to our bankruptcy practice of chapter 13 cases is to really look at the individual circumstances of our clients. Every case is unique. The good news is that we have more control in chapter 13 and more options; such as timing the filing of the case; or request to modify the chapter 13 plan. As debtor's counsel, we must have a complete understanding of our client's goals and their particular circumstances so that we may present the best argument on their behalf.