

# Guide to Judiciary Policy

Vol. 13: Finance and Budget

## Ch. 11: Chapter 7 Trustee Compensation

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### § 1120 Trustee § 330(e) Compensation

- (a) A chapter 7 trustee rendering applicable services in a case filed under chapter 7 on or after Jan. 12, 2021, and through Sept. 30, 2026 — or a case originally filed under chapters 11, 12, or 13 on or after Jan. 12, 2021, and later converted to chapter 7 on or before Sept. 30, 2026 — is eligible to receive up to \$60 in compensation for each applicable case. **See:** [Bankruptcy Administration Improvement Act of 2020](#), Pub. L. No. 116-325, § 3(e)(2)(A).
- (b) These compensation payments are funded from quarterly fees collected by the Department of Justice (DOJ) and deposited in the United States Trustee System Fund in cases filed under chapter 11 of the U.S. Bankruptcy Code. **See:** [28 U.S.C. §§ 589a\(f\)](#), [1930\(a\)\(6\)](#).
- (c) Amounts available for chapter 7 trustees are determined annually based on:
  - (1) the available balance in the United States Trustee System Fund under [28 U.S.C. § 589a\(f\)](#) (**see:** [§ 1120.10 \(Determining Available Balance and Number of Applicable Cases\)](#)), and
  - (2) the case count of new filings and cases converted to chapter 7 during a fiscal year (**see:** [11 U.S.C. § 330\(e\)\(3\)](#); [28 U.S.C. § 589a\(f\)\(1\)\(C\)](#)).
- (d) Only one payment will be issued under [11 U.S.C. § 330\(e\)](#) in each applicable case.

### § 1120.10 Determining Available Balance and Number of Applicable Cases

- (a) After the end of fiscal years 2021 through 2026, the AO Director will determine the following:

- (1) The judiciary's costs of administering compensation payments under [11 U.S.C. § 330\(e\)](#). **See:** [28 U.S.C. § 589a\(f\)\(1\)\(B\)](#). These costs may include, but are not limited to:
    - (A) Annual processes to:
      - (i) determine the appropriate amounts to be paid to eligible trustees under [11 U.S.C. § 330\(e\)\(4\)](#) and [§ 1120.20 \(Calculating Per-Case Compensation for Each Fiscal Year\)](#), and
      - (ii) develop guidance and provide ongoing support related to certifying such payments;
    - (B) Oversight, management, audit, and reconciliation of the Chapter 7 Trustee Fund (5116BT) account;
    - (C) Software enhancements to judiciary case management and financial systems to administer the compensation payments under [11 U.S.C. § 330\(e\)](#); and
    - (D) Staff costs associated with these efforts.
  - (2) Amounts to fund all payments authorized by [11 U.S.C. § 330\(e\)\(2\)](#). **See:** [§ 1120.20 \(Calculating Per-Case Compensation for Each Fiscal Year\)](#); [28 U.S.C. § 589a\(f\)\(1\)\(C\)](#).
- (b) Calculating the Amount Available for § 330(e) Compensation

Under [11 U.S.C. § 330\(e\)\(4\)](#), a trustee who has rendered services in an applicable chapter 7 case is eligible to receive, for each such chapter 7 case, the lesser of \$60 or a pro rata share of the fees collected under [28 U.S.C. § 1930\(a\)\(6\)](#) and deposited to the United States Trustee System Fund under [28 U.S.C. § 589a\(f\)\(1\)](#), less the amounts specified in [§ 589a\(f\)\(1\)\(A\) and \(B\)](#).

- (1) After each fiscal year ends, the judiciary will determine the number of applicable cases under [11 U.S.C. § 330\(e\)\(4\)](#) for that fiscal year.
- (2) Funding available for transfer from the United States Trustee System Fund to the Chapter 7 Trustee Fund (5116BT) account to pay eligible chapter 7 trustees is determined after applying the following offsets:
  - (A) For each of fiscal years 2021 through 2026, \$5,400,000 of fees collected under [28 U.S.C. § 1930\(a\)\(6\)](#). **See:**

[28 U.S.C. § 589a\(f\)\(2\)](#); [Bankruptcy Administration Improvement Act of 2020](#), Pub. L. No. 116-325, § 3(a)(2).

- (B) An amount necessary to fund the DOJ appropriations act for that fiscal year to offset the cost of the operations of U.S. trustees. **See:** [28 U.S.C. § 589a\(a\)](#) and [\(f\)\(1\)\(A\)](#).
  - (C) The amounts determined in subparagraph (a)(1) above that are necessary to reimburse the judiciary for the costs of administering compensation payments under [11 U.S.C. § 330\(e\)](#).
- (3) The funds remaining after the three offsets described above in subparagraph (b)(2) are available to transfer to the Chapter 7 Trustee Fund (5116BT) account for payment to eligible chapter 7 trustees under [11 U.S.C. § 330\(e\)](#). **See:** [§ 1120.20 \(Calculating Per-Case Compensation for Each Fiscal Year\)](#).
- (c) Calculating the Number of Applicable Chapter 7 Cases
- (1) After the end of each fiscal year, the judiciary will calculate and determine the number of applicable cases under [11 U.S.C. § 330\(e\)\(4\)](#) for that fiscal year. The following cases will be included in the case count calculation. **See:** [Bankruptcy Administration Improvement Act of 2020](#), Pub. L. No. 116-325, § 3(e)(2)(A).
    - (A) For fiscal year 2021:
      - (i) any chapter 7 case filed on or after Jan. 12, 2021, and through Sept. 30, 2021, and
      - (ii) any case filed under chapter 11, 12, or 13 on or after Jan. 12, 2021, and later converted to chapter 7 on or before Sept. 30, 2021.
    - (B) For fiscal years 2022 through 2026:
      - (i) any chapter 7 case filed during the applicable fiscal year, and
      - (ii) any case filed under chapter 11, 12, or 13 on or after Jan. 12, 2021, and later converted to chapter 7 during the applicable fiscal year.
  - (2) Chapter 7 case counts will be derived from case filing data compiled by the judiciary. **See:** BAIA Court Case Count Reporting Instructions.

- (3) In early October each year, AO staff will access the CM/ECF replication servers to collect the following publicly available information about chapter 7 cases filed:
- case number,
  - date filed,
  - date converted,
  - trustee name,
  - original filing chapter, and
  - current filing chapter.

### § 1120.20 Calculating Per-Case Compensation for Each Fiscal Year

- (a) To determine the per-case compensation under [11 U.S.C. § 330\(e\)](#) for the applicable fiscal year, the amount available under [§ 1120.10\(b\) \(Calculating the Amount Available for § 330\(e\) Compensation\)](#) is divided by the chapter 7 case count defined in [§ 1120.10\(c\) \(Calculating the Number of Applicable Chapter 7 Cases\)](#).
- (1) If the amount is \$60 or greater, then the per-case compensation for that fiscal year will be \$60 and the AO Director will request that an amount equal to \$60 multiplied by the chapter 7 case count defined by [§ 1120.10\(c\) \(Calculating the Number of Applicable Chapter 7 Cases\)](#) be transferred from the United States Trustee System Fund to the Chapter 7 Trustee Fund (5116BT) account.
- (2) If the amount is less than \$60, the per-case compensation for that fiscal year will be the pro rata share as calculated under paragraph (a), and the AO Director will request that the full available balance be transferred from the United States Trustee System Fund to the Chapter 7 Trustee Fund (5116BT) account.
- (3) The amounts transferred to Chapter 7 Trustee Fund (5116BT) account for a given fiscal year will be available to clerks' offices for payment certification to eligible chapter 7 trustees. **See:** [§ 1120.30 \(Trustee Eligibility for Compensation\)](#).
- (b) The amount of the compensation each fiscal year is fixed under [11 U.S.C. § 330\(e\)\(4\)](#) and the determination described in [§ 1120.10\(b\) \(Calculating the Amount Available for § 330\(e\) Compensation\)](#).
- (c) The compensation for each applicable case filed under or converted to chapter 7 during that fiscal year will be published on the judiciary's [public website](#) along with information on the timing of the § 330(e) payments.

## § 1120.30 Trustee Eligibility for § 330(e) Compensation

### § 1120.30.10 Eligibility to Claim § 330(e) Compensation

- (a) Appointment as the chapter 7 trustee in an applicable case does not by itself qualify the trustee for the compensation.
- (b) To be eligible to receive compensation, a chapter 7 trustee who has rendered services in an applicable case must make a claim for the compensation described in [§ 1120.20 \(Calculating Per-Case Compensation for Each Fiscal Year\)](#).
- (c) The chapter 7 trustee must file a certification, under penalty of perjury, that the information stated in the certification is true and correct. The trustee files this certification with the court that he or she has rendered services, i.e., performed one of the following duties outlined in [11 U.S.C. § 704](#) and the [Federal Rules of Bankruptcy Procedure](#), in an applicable case.
  - (1) Conducting, or filing any document required by rule or statute related to, a meeting of creditors required by [11 U.S.C. § 341](#);
  - (2) Filing a report of no distribution;
  - (3) Filing a notice of assets;
  - (4) Filing a motion or notice to dismiss or convert the case or reviewing such a motion or notice filed by another party in the case; or
  - (5) Filing the chapter 7 trustee's final report.
- (d) Only one certification by one chapter 7 trustee may be filed in each applicable case. Trustees should not file multiple certifications for each action defined in paragraph (c), above.
- (e) A chapter 7 trustee is eligible for compensation without regard to whether the debtor has paid, or the court has waived, the filing fee in the case. **See:** [28 U.S.C. § 1930\(f\)](#); [Fed. R. Bankr. P. 1006\(b\) \(Paying by Installment\)](#).
- (f) Examples of actions in which a trustee **will not be** eligible for compensation for a case filed under or converted to Chapter 7 in an applicable fiscal year include:
  - (1) A case that is dismissed before a chapter 7 trustee is appointed;
  - (2) A case in which the chapter 7 trustee did not "render services" under paragraph (c), above; or

- (3) A case in which a rejection of appointment is filed by the chapter 7 trustee. **See:** [Fed. R. Bankr. P. 2008 \(Notice to the Person Selected as Trustee\)](#).

### § 1120.30.20 Special Considerations

As noted in [§ 1120\(d\)](#), only one payment may be made for each case. Guidance for trustee eligibility in special situations is provided below.

(a) Multiple Trustees Assigned in the Same Case

In a chapter 7 case in which more than one trustee has been assigned during the case, the chapter 7 trustee certified as rendering services in the case, consistent with [§ 1120.30.10](#), will receive the disbursement.

(b) Transferred Cases

In applicable cases that are filed in one district and later transferred to another district or division, each chapter 7 trustee who rendered services in the transferring and receiving districts or divisions and filed the required certification in each case may be paid, provided that:

- (1) Both cases are eligible for § 330(e) compensation under [§ 1120.10\(c\) \(Calculating the Number of Applicable Chapter 7 Cases\)](#); and
- (2) The other requirements of [§ 1120.30.10](#) are also satisfied.

(c) Converted or Reconverted Cases

Subject to the limitation of one payment per case (**see:** [§ 1120\(d\)](#)), a trustee assigned to an applicable chapter 7 case that is later converted to a case under another chapter (including those that are later reconverted back to chapter 7) may be eligible for compensation for rendered services under [§ 1120.30.10](#).

(d) Split or Severed Cases

Split or severed cases constitute two cases for purposes of compensation eligibility. In addition to the trustee serving in the previously filed joint case, a trustee serving in an applicable chapter 7 case that is split or severed from a previously filed joint case may be eligible for compensation for rendered services under [§ 1120.30.10](#).

**Note:** Applicability of a split or severed case is based on the original file date of a joint case (11 U.S.C. § 302), which is retained in the split or severed case.

(e) Reopened Cases

A trustee serving in an applicable chapter 7 case that has been reopened may be eligible for compensation for rendered services under [§ 1120.30.10](#), only if a previous certification had not been filed.

**Note:** The certification may be filed in a closed case without a motion to reopen.

### § 1120.40 Disbursing § 330(e) Compensation

When a chapter 7 trustee requests compensation under [11 U.S.C. § 330\(e\)](#) as provided in [§ 1120.30.10\(c\)](#), the certification must be filed in each case for which the trustee claims compensation. Payments will be made as follows:

(a) Only one § 330(e) payment will be issued for each applicable case. **See:** [§ 1120\(d\)](#).

(b) Compensation will not be disbursed until after the end of the applicable fiscal year, allowing time to complete the calculations under [§ 1120.10 \(Determining Available Balance and Number of Applicable Cases\)](#) and [§ 1120.20 \(Calculating Per-Case Compensation for Each Fiscal Year\)](#).

**Note:** Payments to chapter 7 trustees for § 330(e) compensation will be issued without regard to the timing of payments for § 330(b) compensation.

(c) Payments may not be made until:

(1) the eligible chapter 7 trustee files the required certification under [§ 1120.30.10](#);

(2) the amount available to make all payments is determined under [§ 1120.10 \(Determining Available Balance and Number of Applicable Cases\)](#);

(3) the funds are available in the Chapter 7 Trustee Fund (5116BT) account; and

(4) the AO allots the funds to each clerk's office.

(d) The AO will allot funds to each clerk's office based on the amounts calculated in [§ 1120.20 \(Calculating Per-Case Compensation for Each Fiscal Year\)](#).

(1) Clerk's offices may not begin certifying § 330(e) compensation payments until funds have been allotted to them.

- (2) The funds will remain in the clerk's allotment until paid or until the time for filing a claim has expired (**see:** [§ 1130](#)).

**Note:** The AO centrally administers these funds; therefore, there are no status of funds or general ledger (i.e., AO 183) reporting requirements.

- (e) For each applicable fiscal year where funding for trustee compensation was available for payments, the clerk's office must complete the payment cycle process and submit the Trustee Services Rendered Under § 330(e) Reconciliation report to the AO **at least once per quarter** as outlined below:

- (1) The clerk's office must run the following CM/ECF reports (**see:** Bankruptcy Administration Improvement Act – Trustee Payment Process) to ensure that certifications are identified for payment:
  - (A) Trustee Services Rendered Under § 330(e) report, which will be retained by the clerk's office as supporting documentation for the payment; and
  - (B) Trustee Services Rendered Under § 330(e) Reconciliation report, which **must be submitted to the AO**. The AO will use this report to confirm funding has been provided for applicable cases to eligible trustees.

**Note:** To ensure data consistency between these reports, the reports must be run in immediate succession.

- (2) The AO will review the court's data to ensure that:
  - (A) funding for each applicable case is available (based on the listing of applicable cases provided in [§ 1120.10\(c\)](#) ([Calculating the Number of Applicable Chapter 7 Cases](#)); and
  - (B) cases submitted in a previous payment cycle either have an associated payment record identified in paragraph (9) below or are reviewed to resolve any discrepancy.
- (3) Clerk's office staff must reconcile any report discrepancies identified as part of the payment cycle.
- (4) Once reconciled, the clerk's office may certify payments, relying on:
  - (A) the trustee's certification of services rendered; and



- (B) the automated conditional logic built into the docket entries and reports provided by the AO in CM/ECF.
- (5) Clerk's office staff must enter and certify a payment voucher in JIFMS, consistent with the reconciled CM/ECF report.
- (6) The AO will submit certified payment requests processed in JIFMS to Treasury for disbursement.
  - (A) All disbursements to chapter 7 trustees must be made via EFT. (**See:** [31 CFR 208.3 \(Payment by electronic funds transfer\)](#).)
  - (B) All chapter 7 compensation is subject to the Treasury Offset Program. **See:** Guide, Vol. 13, § 1225 (U.S. Treasury Offset Program (TOP) and Vendor Payments).
- (7) For general guidance on approving, certifying, and disbursing trustee compensation payments, **see:** Guide, Vol. 13, Ch. 4 (Disbursing Appropriated Funds).
- (8) The reconciled Trustee Services Rendered Under § 330(e) report must be retained as supporting documentation for the JIFMS payment voucher.
- (9) Once the payment has been certified, the clerk's office must docket the Trustee Payment Under 11 U.S.C. § 330(e) Processed event in CM/ECF.

**Note:** If the clerk's office fails to docket the payment event in CM/ECF, the case will continue to be displayed on the Trustee Services Rendered Under § 330(e) report and **may result in a duplicate payment.**

### § 1120.50 Claims for § 330(e) Compensation

- (a) If an eligible chapter 7 trustee has certified that he or she has rendered services under [§ 1120.30 \(Trustee Eligibility for Compensation\)](#) and the judiciary has posted payment information on its [public website](#) (**see:** [§ 1120.20\(c\)](#)), but the trustee has not received the § 330(e) payment, the trustee should contact the applicable bankruptcy court.
  - (1) Clerk's office staff should review the case and financial records to determine the reason a payment was not received and, if appropriate, issue the payment.

- (2) If it is determined that a payment was not issued for a basis not covered by [§ 1120.30.10\(c\)](#), the chapter 7 trustee should be instructed to submit his or her claim as described below in paragraph (b).
- (b) A chapter 7 trustee who claims compensation under § 330(e) for rendered services for a basis not covered by [§ 1120.30.10\(c\) \(Eligibility to Claim 11 U.S.C. § 330\(e\) Compensation\)](#) may submit a claim for compensation. The claim must provide:
    - the basis for compensation eligibility, and
    - the signature and address of the claimant or an authorized representative.Claims must be sent to the AO Director by:
    - (1) [email](#); or
    - (2) mail, to One Columbus Circle NE, Suite 4-560, Washington, DC 20544.
  - (c) The AO will review the case and determine whether the chapter 7 trustee is eligible for compensation. If appropriate, the applicable clerk's office may certify the payment for disbursement.

## § 1130 Expiration of Claims

- (a) A chapter 7 trustee's claim to unpaid compensation expires after six years. **See:** [31 U.S.C. § 3702\(b\)\(1\) \(Authority to settle claims\)](#).
  - (b) Payments of chapter 7 trustee compensation are authorized by statute and therefore not eligible under [31 U.S.C. § 1321 \(Trust funds\)](#) for transfer to Treasury's Payment of Unclaimed Moneys (6133BK) account.
- [. . .]
- (d) After six years from eligibility for compensation, [31 U.S.C. § 3702\(b\)\(1\)](#) may, depending on the circumstances, nullify or invalidate a chapter 7 trustee's claim.

[. . .]