

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI**

**BANKRUPTCY PRIVACY RULES—FREQUENTLY ASKED QUESTIONS  
Effective December 1, 2003**

**BASIC PROVISIONS**

Q1. What are the basic provisions of the new privacy rules?

*A1: There are three basic provisions of the new privacy rules aimed at providing safeguards for debtor information.*

- 1. The debtor's full SSN will no longer be a part of the public case record but it must continue to be provided to the court and creditors listed on the debtor's mailing matrix will be notified of the full SSN on the first meeting of creditors notice. Only the last 4 digits of the SSN will be part of the public case record.*
- 2. Debtors are only required to provide the last four digits of any creditor account number on their Schedules but may continue to provide the full account number if they choose.*
- 3. Names of any dependents are no longer required on Schedule I.*

**SSN REDACTION AND NOTICING BASICS**

Q2: With the new privacy rules requiring redaction of a debtor's Social Security number (SSN), how will creditors and other parties get the full number?

*A2: The 341 meeting notice will provide recipients – the debtor, creditors, case trustee, and the US Trustee or bankruptcy administrator – with the debtor's full SSN. Through a new dual noticing procedure to be implemented by the BNC, the file copy of that notice – returned to the court by the BNC with the certificate of service – will show the redacted number.*

Q3: How will attorneys provide the full SSN to the court when filing electronically?

A3: Attorneys must enter the full SSN in the Electronic Case Filing system as part of the entry of debtor information. Only the last 4 digits should be imaged on the pdf copy of the voluntary petition which is filed when a new case is opened. If an attorney uses petition preparer software, contact your vendor to obtain upgraded software. Attorneys must also file a paper original of the Declaration Re: Electronic Filing as modified 11/03 to include disclosure and debtor verification of the full SSN. This document will no longer be a part of the public electronic case file but there will be a text entry noting it has been received by the court.

Q4: How will the redacted SSN be displayed on the docket sheet?

*A4: The display will be in the format "xxx-xx-1234"*

**SSN FILED LATE/AMENDED**

Q5: If the debtor amends the full SSN later in the case, how would creditors or other parties receive the new number?

A5: The debtor must submit an Amended Voluntary Petition (with the correct last 4 digits of the SSN) and a Notice of Corrected Social Security Number which will be a private document that cannot be viewed by the public and will contain the full social security number as well as a certification that the corrected SSN has been served on all creditors.

## **COURT DATA ENTRY ERROR**

Q6: What happens when the clerk's office discovers that it made a typographical error in entering the debtor's SSN in the electronic case filing system and the wrong number was included in the 341 notice sent to creditors, the trustee, and the United States trustee or bankruptcy administrator?

*A6: The clerk's office will correct the error and give notice to all creditors of the error and of the correct SSN.*

## **CREDITOR ADDED**

Q7: What happens when creditors are added to a case? How do they receive the debtor's full SSN?

*A7: The debtor will give notice of the full SSN to the added creditor and certify to the court that this has been done on the Updated Notice of Amendment of Schedule of Debts and Addition of Creditor.*

## **TRUSTEE USE OF SSN & VERIFICATION**

Q8: If a case trustee finds a mismatch between the SSN presented by the debtor at the 341 meeting and the SSN on Form B21 or the 341 notice (or last four digits on the petition), how does the trustee get the court to re-notice the case?

*A8: The trustee should require the debtor to file an Amended Petition (last 4 digits only) and the Notice of Corrected SSN. If the debtor fails to comply voluntarily, a motion to dismiss could be filed.*

Q9: When the court receives a paper original of the Declaration RE: Electronic Filing, how will it be stamped?

*A9: The clerk will use a "received" stamp for paper copies of the Declaration Re: Electronic Filing since the full Social Security Number is submitted, not filed.*

## **PRIVACY & ACCESS TO FULL SSN**

Q10: Is the Declaration Re: Electronic Filing a confidential document? If someone comes to the court and requests the full SSN, should the request be denied? What if the requestor is a party in interest?

*A10: The Declaration Re: Electronic Filing which contains the full Social Security Number should be considered confidential. The impact of the privacy policy would be severely limited if anyone could call or walk up to the court's intake counter and get the full SSN.*

*-A creditor or other entity that wants access to the full SSN may file a motion requesting the full number and setting out the rationale for the request. The court can grant the motion on a showing of sufficient cause.*

Q11: What if the requesting party is a creditor that the debtor has just added to the case?

*A11: If a debtor adds a creditor to the case, the debtor must notice the trustee and affected parties, including the new creditor.*

Q12: If a court receives a request from someone who wants the court to verify that a Social Security number provided by that person is the full SSN of the debtor, how should the clerk's office respond?

*A12: If a court is given the full SSN, the court can verify that it is the number for the debtor in question.*

### **Attorneys with old petition software**

Q13: What happens if petition software vendors don't update their programs by December 1 or if attorneys don't buy and install the updated software by then?

*A13: Pursuant to the directive of F.R.B.P. 5005(a) , the court will accept the petition. The court is not required to redact any personal identifiers. The court will notify the attorney that he/she is not in compliance with the new rules.*

### **EIN & OTHER TAX ID NUMBERS**

Q14: In the case of sole proprietorship, where there may not be an EIN (or it may be missing) and an individual's SSN is used instead for the business identification, should the full SSN be available because in this case it equates to an EIN?

*A14: No. Even if this is a business case, it's still an individual debtor with privacy concerns. The sole proprietor's creditors didn't rely on the SSN any more than the creditors in a consumer case. The EIN and other non-SSN Taxpayer ID numbers are disclosed because they are helpful to creditors and there is no privacy interest in those numbers.*

Q15: How should a debtor's Individual Taxpayer Identification Number (ITIN) be treated if the debtor uses that number in place of a Social Security number on the petition?

*A15: ITINs are used by certain aliens and others who cannot obtain a Social Security number. Like the SSN, the ITIN is a 9-digit number. Although ITINs are not addressed specifically in either Judiciary's privacy policy or in the amendments to the bankruptcy rules and forms which take effect on December 1, 2003, ITINs are used in place of SSNs and function in the same way for tax processing. Accordingly, ITINs should be treated the same way as SSNs, i.e.,*

- (1) that the debtor should include the full ITIN (identified as such) on the Declaration Re: Electronic Filing **submitted** to the court,*
- (2) that the number should be redacted by the filer on any paper **filed** and included in the case file, and*
- (3) the court should include the ITIN on the 341 notice.*