By Daryl J. Smith

The Business Debtor in Chapter 13: Revisiting Consumer Reorganization for Small Enterprise Relief

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Chapter 13 can serve as an effective restructuring tool for certain small business debtors, particularly sole proprietors and individuals operating closely held enterprises with lower debt obligations. While chapter 11 and subchapter V dominate modern business reorganization discussions, chapter 13 continues to provide a streamlined, cost-efficient alternative for eligible debtors whose business liabilities fall within statutory limits.

This article will examine how business income, operational expenses and restructuring needs can be administered within a chapter 13 framework, allowing debtors to preserve operations while repaying creditors through a court-approved plan. The article will further compare chapter 13 and subchapter V, evaluate eligibility constraints, and analyze whether chapter 13 remains an underutilized option for financially distressed small business operators.

The entrepreneurial spirit has long occupied a central role in the American economy. From technology startups and online retailers to plumbers, electricians, landscapers, truck drivers, restaurant operators and family-owned service businesses, small business formation remains one of the primary avenues through which individuals build wealth in the U.S. Indeed, entrepreneurship has historically served as one of the most reliable paths toward economic mobility and financial independence. Yet entrepreneurial success necessarily carries financial risk. Businesses fail, revenues fluctuate, markets contract, and debt obligations become unmanageable.

When a large corporate enterprise such as Spirit Airlines encounters financial distress, sophisticated restructuring mechanisms under chapter 11 often become available. In some cases, a traditional chapter 11 reorganization may preserve operations; in others, a sale under 11 U.S.C. § 363 or an out-of-court asset transaction may maximize enterprise value.[1] Large corporations typically possess institutional lenders, investment bankers, restructuring professionals and complex capital structures capable of supporting a chapter 11 proceeding.

The situation is dramatically different for the local lawn service operator, food truck owner, independent contractor, rideshare driver, home repair business or owner-operated trucking company. These debtors often lack the resources necessary to survive the administrative expense and procedural complexity of chapter 11 practice. For many of these individuals, however, the Bankruptcy Code already contains a streamlined and cost-efficient restructuring mechanism: chapter 13.

Although modern bankruptcy scholarship and practice increasingly focus on subchapter V of chapter 11 as the preferred vehicle for small business reorganization, chapter 13 continues to provide an effective restructuring framework for sole proprietors and closely held business operators whose debts fall within statutory limits. Congress designed chapter 13 not solely for "wage earners" with consumer obligations, but for "individual[s] with regular income" capable of repaying debts through a court approved plan.[2] In many cases, small business debtors may reorganize more efficiently and affordably through chapter 13 than through a subchapter V proceeding.

Chapter 13 and the Sole Proprietor

Section 109(e) of the Bankruptcy Code limits chapter 13 relief to "an individual with regular income" whose debts fall below the statutory debt ceilings.[3] As adjusted for inflation effective April 1, 2025, chapter 13 eligibility generally applies to individuals with noncontingent, liquidated unsecured debts of less than approximately $526,700, and noncontingent, liquidated secured debts of less than approximately $1,580,125.[4] These debt ceilings apply separately and are periodically adjusted pursuant to 11 U.S.C. § 104.

While courts routinely emphasize that corporations, partnerships and limited liability companies are ineligible for chapter 13 relief, the practical reality is that many small business debtors continue to reorganize business obligations successfully through chapter 13 proceedings. The reason is doctrinally straightforward: In some cases, a sole proprietorship is not legally distinct from the individual debt-

1 11 U.S.C. § 363.

2 11 U.S.C. §§ 101(30), 109(e).

3 11 U.S.C. § 109(e).

4 *See* 11 U.S.C. § 104; Revision of Certain Dollar Amounts in the Bankruptcy Code Prescribed Under Section 104, 90 Fed. Reg. 6626 (Jan. 17, 2025).

or. Business debts incurred through the operation of a sole proprietorship therefore become debts of the individual and may be administered within the chapter 13 estate.[5]

Congress expressly contemplated this result when enacting § 109(e). The legislative history recognizes the viability of chapter 13 for small "mom and pop" operations:

> Whether a small business operated by a husband and wife, the so-called "mom and pop grocery store," will be a partnership and thus excluded from chapter 13, or a business owned by an individual, will have to be determined on the facts of each case.[6]

Thus, the Bankruptcy Code distinguishes between separate legal entities that cannot proceed under chapter 13 and sole proprietorships, which may reorganize through an individual debtor's case because no separate juridical entity exists.

Numerous courts have recognized that sole proprietors may utilize chapter 13 to reorganize business-related liabilities. In *In re Pearson*, the Sixth Circuit explained that chapter 13 eligibility turns on the nature and amount of debts owed by the individual debtor under § 109(e), not whether those debts arose from business operations.[7] While *Pearson* primarily addressed liquidated debt calculations, the decision reinforced the principle that business-originated liabilities are properly included in determining chapter 13 eligibility.

Similarly, bankruptcy courts routinely administer cases involving self-employed debtors, independent contractors and sole proprietors whose repayment plans depend on ongoing business income. The chapter 13 framework expressly accommodates "individual[s] with regular income," a phrase broad enough to include self-employment earnings and operating revenue as long as income remains sufficiently stable and regular to fund a plan.[8]

Business Debt Within the Chapter 13 Framework

For many small business debtors, chapter 13 offers practical restructuring advantages unavailable in chapter 11 proceedings. A debtor may continue operating the business, retain essential assets, cure arrears on secured obligations, restructure tax liabilities, and repay unsecured creditors over a three-to-five-year period pursuant to §§ 1322 and 1325.[9] Unlike chapter 11, chapter 13 generally avoids disclosure statement litigation, creditor committee disputes, monthly operating report requirements commonly associated with chapter 11 practice, and the substantial professional fees incurred in corporate reorganization cases.

Importantly, chapter 13 expressly permits debtors to remain in possession of both personal and business property while continuing operations.[10] This distinction becomes critically important for sole proprietors whose ability to generate future income depends entirely upon retaining such operational assets as trucks, tools, trailers, food service equipment, landscaping machinery or commercial vehicles.

Moreover, chapter 13 allows debtors to address secured arrearages, tax obligations and unsecured claims through a centralized repayment mechanism supervised by the bankruptcy court and standing trustee. For many small business operators, this framework offers the precise form of rehabilitation contemplated by the Bankruptcy Code: preservation of productive enterprise while maximizing repayment to creditors from future income.

Trustee Oversight and Administrative Expertise in Chapter 13 Cases

One frequently overlooked advantage of chapter 13 as a small business restructuring vehicle is the extensive institutional experience possessed by standing chapter 13 trustees. Critics of business reorganization through chapter 13 sometimes assume that the chapter lacks the financial sophistication or supervisory mechanisms associated with chapter 11 practice. Chapter 13 trustees routinely administer financially complex cases involving self-employed individuals, sole proprietors and closely held business operations.

Under 11 U.S.C. § 1302, chapter 13 trustees are charged with investigating the debtor's financial affairs, reviewing repayment plans, evaluating feasibility, examining claims and ensuring compliance with the Bankruptcy Code.[11] In performing these duties, trustees regularly analyze business tax returns, operating statements, payroll records, profit-and-loss reports, bank statements and cash-flow projections submitted by debtors operating ongoing enterprises.

Indeed, many standing chapter 13 trustees possess decades of experience administering business-related repayment cases. Trustees are frequently experienced bankruptcy attorneys, certified public accountants, or financial professionals with substantial backgrounds in insolvency administration and forensic financial review. Trustee offices also maintain access to accountants, valuation professionals and other financial experts capable of analyzing operational viability when necessary.

Moreover, chapter 13 trustees possess investigatory authority comparable in many respects to trustees operating under other chapters of the Bankruptcy Code. Trustees may conduct examinations under Federal Rule of Bankruptcy Procedure 2004 to investigate the debtor's assets, liabilities, financial condition, transfers, operational history or overall financial affairs.[12] Rule 2004 examinations often function as broad investigatory tools, allowing trustees to examine business records, subpoena financial information, and evaluate the feasibility and good faith of proposed repayment plans.

The practical distinction between chapter 13 and subchapter V therefore does not necessarily rest upon the absence of oversight or financial scrutiny. Rather, the distinction lies primarily in the administrative structure and cost associated with the reorganization process. Whereas subchapter V incorporates many procedural complexities derived from chapter 11 practice, chapter 13 often allows similarly situated sole proprietors to reorganize through a more efficient and less expensive framework while remaining subject to meaningful trustee supervi-

5 *See In re Blais*, 512 B.R. 727, 730–31 (Bankr. D. Mass. 2014).

6 H.R. Rep. No. 95 595 at 319 (1977); S. Rep. No. 95 989 at 32 (1978).

7 *Comprehensive Accounting Corp. v. Pearson (In re Pearson)*, 773 F.2d 751, 756–57 (6th Cir. 1985).

8 11 U.S.C. § 101(30); *see also In re Antoine*, 208 B.R. 17, 19 (Bankr. E.D.N.Y. 1997).

9 11 U.S.C. §§ 1322, 1325.

10 11 U.S.C. § 1306(b).

11 11 U.S.C. § 1302(b).

12 Fed. R. Bankr. P. 2004.

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Comparing Trustees Under Chapters 7, 12 and 13 and Subchapter V

A chapter 7 trustee primarily functions as a liquidating fiduciary.[13] Under § 704, the trustee collects and liquidates nonexempt assets, investigates the debtor's financial affairs, pursues avoidance actions, examines claims and distributes proceeds to creditors.[14] Chapter 7 trustees frequently conduct extensive forensic investigations into transfers, concealed assets, insider transactions and potential fraudulent conduct.

Unlike chapter 13, chapter 7 generally contemplates termination and sales rather than rehabilitation of the debtor's business operations. For small entrepreneurs dependent on the continued operation of income-producing assets, chapter 7 liquidation could destroy the very enterprise generating repayment income.

Chapter 12 Trustees

Chapter 12 trustees operate within a specialized restructuring framework designed for family farmers and fishermen.[15] Under § 1202, chapter 12 trustees review repayment plans, evaluate feasibility, investigate financial affairs and distribute plan payments to creditors.[16]

Although chapter 12 debtors generally remain in possession of assets and continue operations, trustees frequently analyze agricultural revenues, seasonal cash flows, crop valuations, equipment financing and government subsidy programs. Chapter 12 trustees therefore occupy a hybrid role combining administrative oversight with industry-specific financial review. Also, you must be a family farm or a fisherman generally in a smaller capacity than a commercial farm or fishing company.

Chapter 13 Trustees

Chapter 13 trustees primarily function as plan administrators and financial overseers rather than liquidators.[17] Debtors remain in possession of assets under § 1306(b), continue operating businesses and repay creditors through future income.[18] Trustees review feasibility, examine business records, evaluate disposable income, investigate financial affairs and distribute plan payments.

Importantly, chapter 13 trustees routinely administer cases involving self-employed debtors and sole proprietors. Their familiarity with reviewing operating reports, tax returns and business income streams demonstrates that the chapter 13 system already possesses substantial institutional capacity to supervise smaller business reorganizations.

Subchapter V Trustees

Subchapter V trustees serve a distinct facilitative role under chapter 11.[19] Pursuant to § 1183, the trustee's primary responsibility is to facilitate development of a consensual reorganization plan while monitoring the debtor's financial performance and ensuring compliance with statutory obligations.[20]

Unlike chapter 7 trustees, subchapter V trustees generally do not liquidate assets or displace the debtor in possession absent cause.[21] Instead, they function partly as mediators, coordinators and restructuring supervisors with the intent to streamline small business chapter 11 cases. Nevertheless, subchapter V proceedings remain procedurally more complex and expensive than chapter 13 cases, particularly for modest sole proprietorship operations with lower debt structures.

Chapter 13 vs. Subchapter V

The distinction between chapter 13 and subchapter V becomes especially significant considering modern small business reorganization practice. Enacted through the Small Business Reorganization Act of 2019, subchapter V was intended to streamline chapter 11 practice for qualifying small business debtors.[22]

Under 11 U.S.C. § 1182(1), a debtor qualifies for subchapter V treatment if the debtor is engaged in commercial or business activities and has aggregate noncontingent liquidated secured and unsecured debts not exceeding approximately $3,424,000,[23] and at least 50% of these debts arise from commercial or business activities. Unlike chapter 13, however, subchapter V does not separate secured and unsecured debt ceilings. Instead, the statute imposes a single aggregate debt cap combining both categories of obligations.[24]

This distinction is significant. Chapter 13 separately limits unsecured debt and secured debt, thereby restricting access for debtors with either excessive unsecured liabilities or substantial secured obligations. Subchapter V, by contrast, applies one unified aggregate debt limitation, often permitting debtors with larger secured business obligations to qualify even if they would exceed chapter 13 secured debt limits.

Subchapter V unquestionably provides powerful restructuring tools, including the elimination of the absolute priority rule, expedited confirmation procedures, and the ability to confirm plans without an impaired consenting class under certain circumstances.[25] Nevertheless, even streamlined chapter 11 practice remains substantially more burdensome and expensive than chapter 13.

Subchapter V debtors frequently encounter increased reporting obligations, operational scrutiny, heightened procedural requirements, quarterly U.S. Trustee fees in some jurisdictions,

13 11 U.S.C. § 704.

14 11 U.S.C. §§ 544, 547, 548, 550, 554, 727.

15 Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99 554.

16 11 U.S.C. § 1202.

17 11 U.S.C. § 1302.

18 11 U.S.C. § 1306(b).

19 11 U.S.C. § 1183.

20 *Id.*

21 11 U.S.C. § 1185(a).

22 Small Business Reorganization Act of 2019, Pub. L. No. 116 54, 133 Stat. 1079

23 11 U.S.C. § 1182(1). *See also* The CARES Act of 2020 temporarily raised the threshold to $7.5 million, but that increase expired in June 2024, reverting first to $3.02 million.

24 *Id.*

25 11 U.S.C. §§ 1181–1195.

and confirmation complexities inherent in chapter 11 practice.[26] For lower-debt entrepreneurs, chapter 13 may therefore provide a substantially more efficient and affordable restructuring vehicle.

Many debtors operating landscaping companies, trucking operations, online retail businesses, food trucks, home-repair services and other closely held sole proprietorships may achieve their reorganization goals more effectively through chapter 13 than through a subchapter V proceeding. In such cases, the debtor retains assets, continues operating the business, and repays creditors pursuant to a confirmed plan without the expense and procedural burdens associated with chapter 11.

Conclusion: The Forgotten Business Reorganization Chapter, and How Chapter 13 Continues to Serve Small Business Debtors

Recent trending case law inquiries under § 109(e) reflect an increasingly important issue in consumer and small business bankruptcy practice: whether debt limitations and entity structure should control access to streamlined reorganization relief. The answer, at least for sole proprietors, has long existed within the Bankruptcy Code itself. Chapter 13 was never solely a consumer repayment statute; it remains a viable business reorganization chapter for individuals operating small enterprises with qualifying debt levels.

The rise of subchapter V has understandably shifted practitioner attention toward chapter 11 solutions. Yet chapter 13 continues to occupy an important and underappreciated role in small business restructuring practice. For many entrepreneurs, particularly those operating modest sole proprietorships with stable income and manageable debt levels, chapter 13 remains the most realistic avenue for preserving business operations while addressing financial distress. abi

26 *See generally* 28 U.S.C. § 1930(a)(6).