

CHAPTER 12 BASICS

Renee S. Williams, Chapter 12 Standing
Trustee, Eastern and Western Districts of
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HISTORY OF CHAPTER 12

- 1980s was a difficult time for family farmers
- Chapter 11s and Chapter 13s were not workable for farmers
- Created as a part of Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986
- Originally scheduled to sunset on Oct. 1, 1993
- Sunset provision extended 11 times
- Made permanent with the Bankruptcy Abuse and Prevention and Consumer Protection Act of 2005

HOW DOES CHAPTER 12 WORK?

- Standing Trustee
- Net Disposable income must be paid to the trustee for distribution to general unsecured creditors until discharge
- Must pay all priority claims in full under 11 U.S.C. § 507 unless the holder agrees otherwise
- Must provide the same treatment for each class of claim unless holder agrees otherwise under 11 U.S.C. § 1222(a)(3)

WHO CAN FILE?

- Only a family farmer or family fisherman with regular annual income may be a debtor
- Must be engaging in farming at the time of filing
- 11 U.S.C. § 101(18)
 1. Individual or individual and spouse,
 2. With aggregate debts not to exceed \$12,562,350.00 (4/1/25),
 3. Not less than 50% of debts (excluding residence) arise out of a farming operation,
 4. More than 50% of the gross income arises from farming operation in each of the 2d and 3d taxable years preceding the filing.

CORPORATION OR PARTNERSHIP

- More than 50% of stock held by one family or family and relatives
- More than 80% of the value of the assets related to the farming operation
- Aggregate debts are less than \$12,562,350.00 (4/1/25)
- Stock not publicly traded.
- No income requirements.

FAMILY FISHERMAN

- 11 U.S.C. § 101 (19)A
 - Individual or individual and spouse engaged in a commercial fishing operation
 - Aggregate debts not to exceed \$2,268,550.00 (4/1/22)
 - Not less than 80% of debts (excluding principal residence) arise out of commercial fishing operation owned or operated by debtor
 - More than 50% of gross income for the taxable year preceding filing arise from the commercial fishing operation

DEFINITIONS OF “FARMER” AND “FARMING OPERATIONS LIBERALLY CONSTRUED. COURTS CONSIDERED:

- The location of the operation
- Nature of the enterprise
- Type of product and its eventual market
- Physical presence/absence of family member on the farm
- Ownership of traditional farm assets
- Whether the debtor is involved in growing crops
- Whether or not the practice or operation is subject to the inherent risks of farming

BENEFITS OF CHAPTER 12 OVER OTHER CHAPTERS


- Plan not due until 90 days after filing
- Simpler plans than Chapter 11; No disclosure statement
- Debtor may retain an asset and reduce the balance of secured claims to the value of the collateral, including the claim against the debtor's residence (not allowed in a 13)
- Plan may be confirmed even though unsecured creditors may not receive full payment for their claims, as long as all disposable income is paid out during the plan; No absolute priority rule
- The automatic stay applies to co-debtors on consumer debts

MORE BENEFITS

- Payment terms on secured debts can be stretched out, re-amortized, and interest rates adjusted; plans may propose the payment of secured creditors be extended over a period longer than the life of the Chapter 12 plan even if that exceeds the term of the original debt without the need for cure of default
- Only the farmer/debtor may propose a plan, not the creditors or trustee
- High debt limit \$12,562,350.00 – much higher than a Chapter 13
- Great amount of flexibility in addressing secured farm debts and payment terms
- Deprioritization of tax claims

SPECIAL CHAPTER 12 TAX RULE

§1232. claim by a governmental unit based on the disposition of property used in a farming operation, or that arises after the filing of the petition and before the debtor's discharge under section 1228, as a result of the sale, transfer, exchange, or other disposition of any property used in the debtor's farming operation-

- (1) shall be treated as an unsecured claim arising before the date on which the petition is filed;
 - (2) shall not be entitled to priority under section 507;
 - (3) shall be provided for under a plan; and
 - (4) shall be discharged in accordance with section 1228.
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SPECIAL CHAPTER 12 TAX RULE

(b) For purposes of applying sections 1225(a)(4), 1228(b)(2), and 1229(b)(1) to a claim described in subsection (a) of this section, the amount that would be paid on such claim if the estate of the debtor were liquidated in a case under chapter 7 of this title shall be the amount that would be paid by the estate in a chapter 7 case if the claim were an unsecured claim arising before the date on which the petition was filed and were not entitled to priority under section 507.

(c) For purposes of applying sections 523(a), 1228(a)(2), and 1228(c)(2) to a claim described in subsection (a) of this section, the claim shall not be treated as a claim of a kind specified in subparagraph (A) or (B) of section 523(a)(1).

(d)(1) A governmental unit may file a proof of claim for a claim described in subsection (a) that arises after the date on which the petition is filed.

END OF CHAPTER 12 SECTION





Dealing with Debt: Practical Considerations in Preparing for and Navigating Ag Bankruptcy

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Dealing with Debt: Practical Considerations in Preparing for and Navigating Ag Bankruptcy

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Dealing with Debt: Practical Considerations in Preparing for and Navigating Ag Bankruptcy

- **Why Are We Talking About This?**
 - Multiple sources report a substantial percentage increase (around 55% or more) in Chapter 12 filings in 2024 compared to 2023. This marks an end to a four-year downward trend in such bankruptcies.



Dealing with Debt: Practical Considerations in Preparing for and Navigating Ag Bankruptcy

- **Why Are We Talking About This?**
 - Data from early 2025 suggests this upward trend is continuing, with some reports indicating that year-to-date filings in 2025 are nearly double or have surged by nearly 70% compared to the same period in 2024.



Dealing with Debt: Practical Considerations in Preparing for and Navigating Ag Bankruptcy

- **Why Are We Talking About This?**
 - **Farm bankruptcies are often a lagging indicator of financial distress, as farmers typically exhaust other financial resources and credit options before filing.**



Pre-Petition Considerations

- **ASSESSMENT !**
 - **Current Financial Status – Wholistic**
 - **Historical Financial Performance**
 - **Is Chapter 12 Necessary?**



Assessment & Evaluation

- **Current Financial Status – Wholistic View**
 - **Balance Sheet – Business and Personal**
 - **Debts – Complete With Current Terms**
 - **Assets – Complete, Accurate Listing**
 - **Pair with Liens / Mortgages**

Balance Sheet



Broke-S Farms
1/1/2005 Balance Sheet

Current Assets		Value	Current Liabilities				Balance	
Cash and checking		3,621	Accrued interest			3,068		
Prepaid exp. & suppl. (Schd B)		7,647	Payables & accr exp (Schd T)			11,550		
Growing crops		-						
Accounts receivable (Schd D)		14,242						
Hedging accounts		-						
Other current assets		-						
Crops (Schd G)	Quantity	Value/Unit						
Com	16,400	1.78 /bu.	29,260					
Alfalfa Hay	90	85.00 /ton	7,650					
Com Silage	220	18.00 /ton	3,960					
Oats	300	1.45 /bu.	435					
Mkt Ivst (Schd H)	No.	Value/Unit						
Raised Hogs	175	57.00 /cwt.	11,970					
Fin Yearling	41	98.00 /cwt.	30,135					
Total Current Assets		108,923	Total Current Liabilities			130,515		
Intermediate Assets			Intermediate Liabilities (Schd V)					
Brdg Ivst (Schd I)	No.	Market Value	Loan	Int Rate	Principal Balance	P & I Due	Principal Due	Intermed Balance
Dairy cows	52	62,400	1st Ntl mach	7.25	63,610	13,512	8,915	64,995
Holifers	47	23,500	Johni Dooro	7.75	37,593	9,353	7,064	30,528
Sows	30	4,500	1st Ntl cows	7.25	16,030	4,813	3,295	12,735
Gilts	10	1,250						
Boars	2	500						
Machinery (Schd J)		105,109						
Titled vehicles (Schd K)		10,000						
Other intermediate assets		-						
Total Intermediate Assets		207,259	Total Intermediate Liabilities					98,259
Long Term Assets			Long Term Liabilities (Schd W)					
Land (Schd M)	Acres	Market Value	Loan	Int Rate	Principal Balance	P & I Due	Principal Due	Lg Term Balance
Home farm	160	1,360,000	1st Ntl RE	7.00	70,621	8,596	3,853	66,768
Buildings and improvements		124,280						
Other long term (Schd O)		30,356						
Total Long Term Assets		1,514,616	Total Long Term Liabilities					66,768
Total Farm Assets		1,830,797	Total Farm Liabilities					295,542
Personal Assots (Schd P)		17,634	Personal Liabilities					-
Total Assets		1,848,431	Total Liabilities					295,542
			Net Worth					1,552,889



Historical Financial Performance



Broke-S Farms Farm Income Statement Summary

Source	2000 FINAN	2001 FINAN	2002 Accr Sch F	2003 Accr Sch F	2004 FINAN	Average
Farm Income Statement						
Gross farm income	161,554	175,624	187,785	233,240	272,271	206,095
Total cash expense	123,325	128,506	165,139	177,121	196,088	168,032
Net cash farm income	38,229	47,118	22,646	56,119	76,204	48,063
Inventory Changes						
Crop and feed	-5,065	4,900	7,090	5,924	-13,674	-165
Market livestock	7,750	171	4,607	-6,862	10,132	3,202
Prepays expenses and supplies	-780	452	163	280	4,812	888
Accounts receivable	-687	339	6,702	-2,012	4,050	1,078
breeding livestock	-942	-602	2,216	1,499	15,725	3,849
Other assets	1,784	1,350	2,070	1,798	-	1,400
Accounts payable	3,815	-	-360	-1,308	2,570	924
Accrued interest	-1,088	545	139	193	241	4
Total inventory change	5,177	7,455	22,511	-590	23,856	11,682
Net operating profit	43,405	54,573	45,157	55,529	100,059	59,745
Depreciation						
Machinery and equipment	-7,899	-7,301	-7,451	-20,661	-7,911	-10,243
Tilable vehicles	-	-	-	10,675	-2,000	1,735
Buildings and improvements	-4,836	-2,242	-5,190	-4,930	-	-3,440
Total depreciation	-12,737	-9,543	-12,641	-14,906	-9,911	-11,948
Net farm income from operations	30,668	45,030	32,516	40,623	90,148	47,797
Net farm income	30,668	45,030	32,516	40,623	90,148	47,797





Historical Production Performance

- **Historical Crop Production**
 - **Cropping Pattern / Rotation**
 - **Crop Yields**
 - **FSA Reports**
 - FSA-578, Report of Acreage
 - FSA-2003 Three-Year Production History
 - **Crop Insurance Reports (e.g. APH)**



Historical Production Performance

- **Historical Livestock Production**
 - **On-Farm Records (Lvstck Enterprise-Specific)**
 - **Livestock Products (e.g. milk, wool)**
 - **Dairy: Milk – DHI records . . .**
 - **Beef: Calving, Weaning Weight, Avg Daily Gain . . .**
 - **Hogs: Litters Per Sow. Pigs Weaned Per Litter . . .**
 - **Contract Poultry: Integrator-provided . . .**



Constructing The Plan

- **Start with a “Typical Year” View (Long-Range Projection)**
- **If Significant Changes Will Occur in Year One – Provide a Year-One Projection (Bridge Projection)**
- **Base Upon Reasonable, Objective Expectations**
 - **Refer to Historical Data**



Navigating The Plan

- **Monitoring and Reporting During the Plan**
 - **Periodic Reporting to Trustee**
 - **Reporting Requirements May Vary**
 - **Periodic Management Monitoring / Reporting**
 - **Internal – Frequency Depends on Farm**
 - **Modifying the Plan**



After The Plan is Discharged

- **The Need for Elevated Financial / Risk Management Does NOT Diminish !**
- **Suggest Continued Engagement With a Farm Management Advisor / Consultant**
 - **Financial/Economic Analytics & Metrics**
 - **Benchmarking**
 - **Managerial Sounding Board**

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- **Below is a QR code providing a link to a Google Drive Folder with additional Documents / Files**





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THANK YOU!

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