

## **CHAPTER 13 DEBTOR'S CERTIFICATIONS REGARDING DOMESTIC SUPPORT OBLIGATIONS AND SECTION 522(q)**

Form B283 may be used by debtors to certify that they have complied with two of the requirements set out in section 1328(a) of the Bankruptcy Code, 11 U.S.C. § 1328(a), for a discharge in chapter 13. The certifications must be made after the debtor has completed the plan payments.

Before completing this optional form, the debtor should determine whether the court has adopted a local form for making these certifications. If the court has adopted a local form, the debtor should use that form instead of Form B283. Information on the court's local rules and forms is available on the court's website. Links to local court websites are posted at <http://www.uscourts.gov/courtlinks/>.

### **Applicable Law and Rules**

Section 1328(a) of the Bankruptcy Code requires that any debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, as defined by section 101(14A) of the Code, certify that all amounts payable under the order or statute that are due on or before the date of the certification have been paid. This certification requirement includes amounts due before the petition was filed, but only to the extent provided for by the plan. The debtor cannot receive a discharge until the certification has been filed.

Section 1302(d)(1)(C) requires the trustee to inform holders of domestic support obligation claims and State child support enforcement agencies of the granting of the debtor's discharge and, among other things, of the debtor's last recent known address and the last recent known name and address of the debtor's employer. Part II is included in Form B283 to provide these addresses to the trustee for the notification.

Section 1328(h) of the Code provides that the court may not grant a discharge in a chapter 13 case unless the court, after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, finds that there is no reasonable cause to believe that --

- section 522(q)(1) may be applicable to the debtor (or either of the joint debtors); and
- there is pending a proceeding in which the debtor (or either of the joint debtors) may be found guilty of a felony of the kind described in § 522(q)(1)(A) or liable for a debt of the kind described in § 522(q)(1)(B).

In order for § 522(q)(1) to be applicable, the debtor must have claimed an exemption in a homestead, residence, or burial plot pursuant to § 522(b)(3) and state or local law in an amount

exceeding \$136,875<sup>1</sup>. The debtor's certification in Part III will enable the court to determine whether § 1328(h) has any possible application to the case.

### **Instructions**

#### **Caption**

1. Identify the Judicial District in which the bankruptcy case was filed. Example: "Eastern District of California."
2. "In re": Insert the name of the debtor as it appears in the bankruptcy petition.
3. "Case No.": Insert the bankruptcy case number assigned by the court at the time of filing.

The instructions to the rest of the form are self-evident.

#### **General Information for the Clerk**

In a joint case, each debtor must file a § 1328(a) certification and a § 1328(h) certification, as described above. The certifications must be made after the plan payments have been completed.

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<sup>1</sup> The amount is subject to adjustment on April 1, 2010, and every three years thereafter with respect to cases commenced on or after the date of adjustment.