

**REVIEWED****By Chris Tighe at 2:18 pm, Aug 29, 2016****5.17.10.9.3 (06-09-2015)****Acceptance and Voting on a Chapter 11 Plan**

1. In Chapter 11 cases, most of a debtor's creditors and interest holders may "vote" to accept or reject a proposed plan. They may also file an objection to the proposed plan. In the USBC, voting on acceptance or rejection of a plan most commonly occurs in Chapter 11 cases. Voting also occurs in Chapter 9 cases. However, Chapter 9 cases are rare.
2. Classes of creditors and interest holders who are unimpaired are deemed to have accepted the plan (11 USC § 1126(f)). A class is deemed not to accept the plan if it receives no property under the plan. A class is deemed not to accept the plan if the class is not entitled to retain property under the plan. (11 USC § 1126(g))
3. An impaired class of creditors is considered to have accepted the plan:
  - A. Other than an entity whose acceptance or rejection of the plan was not in good faith as determined by the court,
  - B. The plan is accepted by creditors holding at least two-thirds of the amount of the combined claims, and
  - C. The plan is accepted by more than one-half in number of the allowed claims of those in the class who vote.

See 11 USC §§ 1126(c) and 1126(e).

4. Administrative expense claims, gap period claims, and priority tax claims should not be classified by a Chapter 11 plan. Ordinarily, the IRS does not vote with respect to these types of claims. However, Field Insolvency (FI) may refer the case to Area Counsel to request an objection to confirmation of the plan. Referrals to Area Counsel are subject to the tolerances in IRM 5.9.4.14.4, *Referrals — Representing IRS in Bankruptcy Court, Referral Tolerances*.
5. However, IRS claims that are secured or general unsecured should be classified. These secured or general unsecured claims are frequently impaired by the plan. IRS should have an opportunity to vote to accept or reject a plan with respect to these types of claims.
  - A. 11 USC § 1126(a) gives the Secretary of the Treasury authority to accept or reject a Chapter 11 plan on behalf of the United States. This includes Chapter 11 plans where the IRS or other agencies of the United States are creditors in the case.
  - B. Chief Counsel was given the authority to accept or reject plans where the U.S. is a creditor by General Counsel Order No. 4 (Jan. 19, 2001). See CCDM 30.2.2, Exhibit 30.2.2-6, for additional information. This delegation covers proceedings where the U.S. has only a tax claim. It also covers proceedings in which there are other claims of the U.S., in addition to the claim of the IRS.
6. When the U.S. has claims for taxes owed to IRS and there are debts owed to other agencies, the different agencies must coordinate their votes. Disagreements on voting may be referred to the General Counsel of the Treasury Department for resolution. See Chief Counsel Directives Manual (CCDM) at IRM 30.2.2, Exhibit 30.2.2-6 at ¶10.