

Surplus Income in Practice: Navigating Complex Scenarios

How to understand the trends for a better decision-making process

Background

Why do we need to discuss Surplus Income?

- Basis for comparison bankruptcy vs proposal
- Equity for both creditors and the debtor
- Difficulties establishing income
- Directive 11R2 is under review

Legislative & Regulatory Framework for Surplus Income

Section 68 of the *Bankruptcy and Insolvency Act* (BIA)

- The Superintendent establishes, by directive, the standards for determining the surplus income and the calculation of the amount payable

Directive No. 11R2, *Surplus Income*

The surplus income calculation:

- Average monthly income of the family unit less the monthly non-discretionary payments.
- Derived from the **Low Income Cut-Off** (LICO) and updated every year.
- Individual bankrupt has surplus income when monthly income is equal to or greater than \$200.
- Individual bankrupts with surplus income are **required to contribute 50%** of the amount above the standard.

Legislative & Regulatory Framework for Surplus Income – continued

The LIT must :

- determine the surplus income with Superintendent's standards and personal and family situation of the bankrupt
- take reasonable measure to ensure the bankrupt complies
 - redetermination required when LIT is aware of material change or whenever the LIT is required to prepare a subsection 170(1) report
- apply Directive 11R2 in accordance with section 68.
 - uses Form 65 and related guidance document to calculate the surplus income obligation during the assessment and any redetermination and to communicate it to the OSB and creditors.