

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

RAAM GLOBAL ENERGY COMPANY,  
*et al.*

Debtor.

§  
§  
§  
§  
§  
§  
§  
§

BANKRUPTCY NO. 15-35615  
Chapter 11

**UNITED STATES OF AMERICA’S RESPONSE IN OPPOSITION TO  
DEBTOR’S FIRST EMERGENCY MOTION FOR ESTIMATION OF GENERAL  
ADMINISTRATIVE, PRIORITY TAX, & OTHER PRIORITY CLAIMS**

The United States of America, on behalf of the Department of Treasury, Internal Revenue Service (“IRS”), responds to the Debtors’<sup>1</sup> First Emergency Motion for Estimation of General Administrative, Priority Tax, & Other Priority Claims [Doc. 312] (“Estimation Motion”). The Debtor’s Estimation Motion should be denied as they have not identified any “undue delay” requiring the Court’s use of 502(c), any delay is due to the Debtors’ failure to file their tax returns and a pending examination of 2014 taxes, and 502(c) is not a proper procedural vehicle for the Debtors’ attempt to disallow or reduce the IRS’s claims.

**I. BACKGROUND**

1. The Court set June 12, 2016 as the deadline for governmental units to file proof of claims against the Debtors. [Doc. 42.] The administrative and priority claims bar date was set for January 13, 2016. [Doc. 272.]

2. On November 5, 2015, the IRS timely filed its priority claim of \$382,937.91, and on December 21, 2015, the IRS filed priority claims of \$9,450.80, \$11,467.31, \$2,293,817.93,<sup>2</sup>

---

<sup>1</sup> RAAM Global Energy Company, Century Exploration New Orleans, LLC, Century Exploration Houston, LLC, and Century Exploration Resources, LLC (collectively “Debtors”).

<sup>2</sup> The Debtors do not appear to seek an estimation for the priority tax claim against Century Exploration New Orleans LLC in their Estimation Motion. *See* Estimat. Mot. at ¶ 14.

and \$200 as a general claim.<sup>3</sup> The IRS's proofs of claim included estimated amounts due to unfiled returns, unassessed amounts, and a pending examination.

3. On Sunday, January 10, 2016, Debtors filed the Estimation Motion and on January 12, 2016, the Debtors filed a Notice of Agenda [Doc. 328], stating that the Estimation Motion was uncontested without having conferred with the IRS or its counsel.

4. The Debtors did not object to the allowance of the IRS proofs of claim or set forth any valid grounds for seeking what is essentially a disallowance of the claims and attempt to avoid their tax liabilities by requesting that the Court estimate the IRS's priority tax claims at zero. (Estimat. Mot. at ¶ 15.)

5. Further, the Debtors have not demonstrated "undue delay" mandating the Court's estimation under 502(c) and any "delay" is due to the Debtors' delinquent and unfiled tax returns.

6. The purpose of claims estimation provided in § 502(c) "is to avoid any undue delay in administering the estate." Claims estimation is "a procedural device that is to be used when adjudication and liquidation of a claim would take an unreasonably long time to allow courts to quickly and flexibly estimate the amount of an as yet to be liquidated claim." *In re Mud King Prods.*, 514 B.R. 496, 510 (Bankr. S.D. Tex. 2014), *aff'd*, Civil Action No. H-14-2316, 2015 WL 862319, at \*1 (S.D. Tex. Feb. 27, 2015).

7. As courts have noted, estimation

does not become mandatory merely because liquidation may take longer and thereby delay administration of the case. Liquidation of a claim, in fact, will almost always be more time consuming than estimation. Nonetheless, bankruptcy law's general rule is to liquidate, not to estimate. For estimation to be mandatory, then, the delay associated with liquidation must be 'undue.'"

---

<sup>3</sup> The claims filed on December 21, 2015 were filed in the associated cases, 15-35614, 15-35616, 15-35617.

*In re Dow Corning Corp.*, 211 B.R. 545, 563 (Bankr. E.D. Mich. 1997). Estimation is to “prevent the administration of the debtor’s estate from being held hostage by the fixing or liquidation of an unliquidated or contingent claim. **It is not a mechanism for reducing the amount of a debtor’s liability.**” *In re RNI Wind Down Corp.*, 369 B.R. 174, 191 (D. Del. 2007) (emphasis added).

8. Here, the Estimation Motion states in a conclusory manner that the Court’s failure to estimate the priority tax claims would “unduly delay administration of the case.” (Estimat. Mot. ¶ 2) without identifying the cause or nature of the undue delay.

9. Any “delay” in determining the amount of the Debtors’ tax liability is a direct consequence of the Debtors’ actions. The Debtors have not filed all pre-petition and post-petition<sup>4</sup> returns for payroll, non-payroll, unemployment, and corporate income taxes, and have submitted delinquent returns after the petition was filed.

10. Although the Debtors claim that all due and owing payroll taxes have been timely remitted through ADP, the Debtors are ultimately responsible for the tax liability, as ADP is not a debtor in this matter. Any payment issues or disputes between the Debtors and ADP should be addressed outside the purview of this Court’s proceedings and are not a reason to disallow the IRS’s claims or reduce them to zero.

11. For the foregoing reasons, and given the delinquent and unfiled returns, the Estimation Motion should be denied.

---

<sup>4</sup> The United States Bankruptcy Court in the Western District of Texas has also noted that 502(c) does not apply to post-petition claims. *In re MacDonald*, 128 B.R. 161, 167 (Bankr. N.D. Tex. 1991) (stating “[e]qually important to recall at this point, however, is that Section 502(c) does not by its own terms apply to *post*-petition claims. . . . We are not bound to blindly apply Section 502(c) and all its legal baggage to post-petition administrative claims . . . , nor should we where to do so would definite the legitimate ends of other provisions of the Bankruptcy Code”). The court also stated that estimation should not be used to “set the outer limits of a claimants’ right to recover.” *Id.*

WHEREFORE, the United States of America respectfully prays that the Debtors' Plan not be confirmed and for such other and further relief to which it may be entitled.

Respectfully submitted,

KENNETH MAGIDSON  
UNITED STATES ATTORNEY

BY: /s/Eun Kate Suh  
Eun Kate Suh  
Assistant United States Attorney  
Attorney-in-Charge  
Federal Id. No. 1138448  
Texas Bar No. 24075132  
1000 Louisiana Street, Suite 2300  
Houston, Texas 77002  
713.567.9000  
713.718.3303 (fax)  
eun.suh@usdoj.gov

**CERTIFICATE OF SERVICE**

I, Eun Kate Suh, Assistant United States Attorney for the Southern District of Texas hereby certify that a true and correct copy of the foregoing was served via ECF on January 15, 2016.

/s/ Kate Suh  
Eun Kate Suh  
Assistant United States Attorney