

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

In re:

RAAM GLOBAL ENERGY COMPANY,
et al.

Debtor.

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BANKRUPTCY NO. 15-35615
Chapter 11

**UNITED STATES OF AMERICA’S OBJECTION TO CONFIRMATION OF
DEBTORS’ SECOND AMENDED JOINT PLAN OF LIQUIDATION [Doc. 286-2]**

The United States of America, on behalf of the Department of Treasury, Internal Revenue Service (“IRS”), objects to the Second Amended Joint Plan of Liquidation [Doc. 286-2] (“Plan”).

In support thereof, the United States alleges:

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, and \$200 as a general claim.¹ The IRS’s proofs of claim, incorporated into this objection, included estimated amounts due to unfiled returns, unassessed amounts, and a pending examination.

3. To date, the Debtors have not filed all pre-petition and post-petition returns for payroll, non-payroll, unemployment, and corporate income taxes, and submitted delinquent returns after the petition was filed.

¹ The claims filed on December 21, 2015 were filed in the associated cases, 15-35614, 15-35616, and 15-35617.

4. Prior to confirmation, the Debtors should be required to file all tax returns and the IRS will need time to process these returns to ensure completeness, accuracy, and make necessary adjustments to the Debtors' tax assessments. In addition, these tax returns may be subject to further examination or audits. Once these tasks are completed, the IRS may need to amend its proofs of claim and the Plan should not be confirmed.

5. The Debtors' Plan proposes no distributions on late-filed claims and deems such claims to be automatically disallowed without any further by the Debtors, the Liquidating Trustee, and without an order of the Bankruptcy Court. Yet, the Plan proposes allowing objections to claims even after the claims objection deadline. Again, the IRS objects to these provisions as the Debtors have not filed all tax returns and the IRS should be allowed time to assess any taxes and based on the results of the review, be allowed to amend its proofs of claim.

6. As noted in the IRS's Response to the Debtors' First Emergency Motion for Estimation of General Administrative, Priority Tax, & Other Priority Claims, it is questionable as to whether § 502(c) applies to post-petition claims. The Plan proposes any estimated amounts to either constitute the allowed amount of a claim, or the maximum limitation. In the event the Debtors are seeking to apply § 502(c) to any post-petition claims or taxes, the IRS objects.²

7. The Debtors should also not be discharged from any obligation to the United States of America that is otherwise non-dischargeable pursuant to applicable law. The confirmation order should set forth that priority tax claims are non-dischargeable.

² 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.*

8. The Plan's release provisions are overly broad. According to the Plan, the IRS's claims would be forever discharged, including claims that are known or unknown prior to the effective date of any party under the Plan. The IRS objects to these provisions, especially given the unfiled returns.

9. The proposed Plan is deficient because it does not adequately provide for the IRS's claims. Section 1129(a)(3) of the Bankruptcy Code requires a debtor to file a feasible, good faith plan. At present, the Plan does not accurately include all of Debtors' obligations due to the Debtors' failures to adequately address the IRS's claims and for failure to file all tax returns. It is thus not a feasible, good faith plan.

10. The IRS objects to the confirmation of the Debtors' proposed Plan. The Plan should not be confirmed unless and until the Debtors file all missing tax returns.

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,

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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