



SO ORDERED,

Judge Neil P. Olack
United States Bankruptcy Judge
Date Signed: June 29, 2015

The Order of the Court is set forth below. The docket reflects the date entered.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

TRANEEIS YVETTE TAYLOR,

CASE NO. 15-00645-NPO

DEBTOR.

CHAPTER 13

IN RE:

DOROTHY R. NEWSOME,

CASE NO. 15-00815-NPO

DEBTOR.

CHAPTER 13

ORDER OVERRULING OBJECTIONS TO CONFIRMATION

In two different chapter 13 cases, there came before the Court for hearing (the “Hearings”) on May 27, 2015, a common issue as to whether a potential inaccuracy or other error within a debtor’s tax return is a ground for not confirming said debtor’s chapter 13 plan. In the first case, *In re Taylor*, Case No. 15-00645-NPO (the “*Taylor Case*”), James L. Henley, Jr., the standing chapter 13 trustee (the “Trustee”), filed the Trustee’s Objection to Confirmation (the “*Taylor Objection*”) (*Taylor Case*, Dkt. 21) and the debtor, Traneeis Yvette Taylor (“Taylor”) filed the Response to Trustee’s Objection to Confirmation (the “*Taylor Response*”) (*Taylor Case*, Dkt. 25). In the second case, *In re Newsome*, Case No. 15-00815-NPO (the “*Newsome Case*”), the Trustee filed the Trustee’s Objection to Confirmation (the “*Newsome Objection*” or, together

with the *Taylor* Objection, the “Objections”) (*Newsome* Case, Dkt. 28) and the debtor, Dorothy R. Newsome (“Newsome” or, together with Taylor, the “Debtors”) filed the Response to Trustee’s Objection to Confirmation (the “*Newsome* Response”) (*Newsome* Case, Dkt. 31). At the Hearings, Taylor and Newsome were represented by J. Thomas Ash (“Ash”) and the Trustee was represented by Catoria Martin (“Martin”). The Court, being fully advised in the premises, finds as follows:

Jurisdiction

This Court has jurisdiction over the parties to and the subject matter of these proceedings pursuant to 28 U.S.C. § 1334. These are core proceedings under 28 U.S.C. § 157(b)(2)(L). Notice of the Objections was proper under the circumstances.

Facts

A. *Taylor* Case

1. On February 23, 2015, Taylor filed a petition for relief (*Taylor* Case, Dkt. 1) pursuant to chapter 13 of the Bankruptcy Code.
2. On March 9, 2015, Taylor filed her chapter 13 plan (the “*Taylor* Plan”) (*Taylor* Case, Dkt. 8).
3. On April 15, 2015, the Trustee filed the *Taylor* Objection claiming that because Taylor inappropriately indicated her filing status on her 2014 federal income tax return, he is unable to determine Taylor’s true tax liability. As such, the Trustee requests the Court to deny confirmation of the *Taylor* Plan or, in the alternative, require Taylor to amend her 2014 federal income tax return and pay any potential tax debt owed through the *Taylor* Plan.
4. On April 21, 2015, Taylor filed the *Taylor* Response.

B. Newsome Case

5. On March 9, 2015, Newsome filed a petition for relief (*Newsome Case*, Dkt. 1) pursuant to chapter 13 of the Bankruptcy Code.

6. On March 17, 2015, Newsome filed her chapter 13 plan (the “*Newsome Plan*” or, together with the *Taylor Plan*, the “*Plans*”) (*Newsome Case*, Dkt. 7).

7. On April 15, 2015, the Trustee filed the *Newsome Objection* claiming that because Newsome inappropriately indicated her filing status on her 2014 federal income tax return, he is unable to determine Newsome’s true tax liability. As such, the Trustee requests the Court to deny confirmation of the *Newsome Plan* or, in the alternative, require Newsome to amend her 2014 federal tax returns and pay any potential tax debt owed through the *Newsome Plan*.

8. On April 21, 2015, Newsome filed the *Newsome Response*.

Discussion

The confirmation of a debtor’s chapter 13 plan is governed by 11 U.S.C. § 1325.¹ Section 1325(a) provides that, absent an objection regarding whether a debtor is proposing to commit all of their projected disposable income to their chapter 13 plan, the Court shall confirm a proposed plan if it meets the nine (9) requirements set forth in that section. 11 U.S.C. § 1325(a). In the *Objections*, the Trustee objects to the confirmation of the *Plans* because he is “unable to determine [the Debtors’] true tax liability until 2014 Tax Returns are amended.” The Trustee does not cite any subsection of § 1325 but instead cites § 1308, which provides, in relevant part, the following:

¹ Hereinafter, all code sections refer to the Code found at title 11 of the United States Code unless otherwise noted.

Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with the appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

11 U.S.C. § 1308(a). At the Hearing, Martin stated that the Debtors provided information at their respective § 341 meetings of creditors that led the Trustee to believe that the Debtors selected the wrong “filing status” on their 2014 federal tax returns.

The Court finds that the Trustee has not set forth a sufficient basis for why the Plans should not be confirmed. *See In re DeLuna*, No. BR 11-53444-C, 2012 WL 4679170, at *1 (Bankr. W.D. Tex. Oct. 2, 2012) (“[I]f there is a basis for sustaining the trustee’s objection to this plan, it must be grounded in the provisions of [§ 1325] itself. Otherwise, this court risks engrafting new requirements for chapter 13 confirmation never envisioned by Congress.”); *Petro v. Mishler*, 276 F.3d 375, 377 (7th Cir. 2002) (“The language of section 1325(a) sets forth the specific and limited universe of requirements that must be met by a debtor in his or her proposed Chapter 13 plan.”). A perceived² inaccuracy or other error on a debtor’s tax return, by itself, is not a basis for an objection to confirmation under § 1325. The only subsection of § 1325 that references a debtor’s duty to file their tax returns under § 1308 is § 1325(a)(9), which provides that a bankruptcy court shall confirm a plan if “the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.” 11 U.S.C. 1325(a)(9).

Here, the Trustee has not alleged that the Debtors failed to file their federal tax returns with the appropriate tax authorities. Instead, the Trustee contends that the Debtors’ filed tax returns are inaccurate. “The primary purpose of Section 1308 is to give taxing authorities the

² No evidence (documents, testimony, or otherwise) was admitted into evidence at the Hearings.

information they need in order to file proofs of claims.” 8 COLLIER ON BANKRUPTCY ¶ 1308.1 (16th ed. 2015). If the Debtors have complied with § 1308 by filing their tax returns with the appropriate tax authorities, then the purpose of § 1308 has been satisfied and those authorities should have the information they need to file a proof of claim reflecting what they believe are owed by the Debtors.

The Court notes that the Trustee is not prevented from notifying the appropriate tax authorities of a potential inaccuracy or other error within a debtor’s tax return to enable that authority to take whatever steps it deems necessary to protect its interests. Depending on when the tax authority receives notice from the Trustee, it may seek additional information about the issue with the debtor’s tax return by appearing at the debtor’s § 341 meeting of creditors and/or moving for an examination of the debtor under Rule 2004 of the Federal Rules of Bankruptcy Procedure. The tax authority may then determine that it should file a proof of claim in the debtor’s bankruptcy case, object to confirmation of the debtor’s chapter 13 plan, or take any other action it may deem appropriate in order to protect its interests.

The Court accordingly finds that the Objections should be overruled. As for the Trustee’s alternative request in the Objections that the Court compel the Debtors to amend their federal tax returns, the Trustee has not alleged that the Debtors have failed to comply with any section of the Bankruptcy Code or rule of bankruptcy procedure that would warrant the Court to compel the Debtors to take any action.

Conclusion

For the above and foregoing reasons, the Court concludes that the Objections should be overruled.

IT IS, THEREFORE, ORDERED that the Objections hereby are overruled.

##END OF ORDER##