

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
JACOB L. WICKEY) CASE NO. 05-12662
REBECCA J. WICKEY)
)
Debtors)

DECISION AND ORDER DENYING OBJECTION TO CLAIM

At Fort Wayne, Indiana, on April 4, 2007.

The debtors have objected to a claim filed on behalf of the Internal Revenue Service which has been designated by the clerk as Claim No. 2.

The court notes that Claim No. 2 filed by the Internal Revenue Service has been amended by Claim No. 15. Since the creditor's original claim has been superceded or amended by the subsequent claim, the debtors do not even need to address the earlier filed claim. That claim is no longer pending before the court and of no further force or effect. See Cf., 188 LLC v. Trinity Industries, Inc., 300 F.3d 730, 736 (7th Cir. 2002)("An amended pleading ordinarily supercedes the prior pleading. The prior pleading is in effect withdrawn. . .and becomes functus officio."); Kelley v. Crosfield Catalysts, 135 F.3d 1202,1204-05 (7th Cir. 1998)(same). The court also notes, that the certificate of service within the notice is not dated and therefore the court cannot determine if the creditor has been given the required thirty (30) days to respond to the objection. See, Fed.R.Bankr.P. Rule 3007; N.D.Ind.L.B.R. B-3007-1.

IT IS THEREFORE ORDERED that the debtors' objection to claim no.2 filed by the Internal Revenue Service is overruled.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court