

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:

Not for Publication

DAVID LEE RICE

PATRICIA LYNN RICE

Debtors

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CASE NO. 14-10995

DECISION AND ORDER OVERRULING OBJECTION

On August 31, 2015.

The debtors have objected to claim number 8-1 filed by the Internal Revenue Service contending that the claim is based on an estimate of the debtors' tax liability, that the debtors have since filed all of their returns, and, as a result, the IRS should amend its claim. That may all be true, but the debtors' objection seeks no relief. Do they want the claim disallowed? Do they want the court to order the IRS to amend its proof of claim?¹ Do they want the claim allowed in a different amount? The debtors do not say. See, Fed. R. Bankr. P. Rule 9013 ("A motion shall state with particularity the grounds therefor" and the relief sought). See also, N.D. Ind. L.B.R. B-3007-1(b) ("An objection to a proof of claim shall . . . state with specificity the basis for disallowance or allowance in an amount . . . other than that claimed.").

Claims are deemed allowed unless objected to. See, 11 U.S.C. § 502(a). "[T]o be proper, an objection to a proof of claim must allege facts which, if accepted as true, would trigger one of the statutory reasons for denying a claim. If it does not, the objection should not be sustained. This remains true even if the creditor lacks sufficient interest to respond." In re Taylor, 289 B.R. 379, 384 (Bankr. N.D. Ind. 2003). Where, as here, the claim being objected to is a tax claim, the objector

¹If that is what the debtors are seeking, Bankruptcy Rule 7001 requires an adversary proceeding. Fed. R. Bankr. P. Rule 7001.

must not only demonstrate that the amount claimed due is not correct, but also what the correct amount actually is. See, In re Stoecker, 179 F.3d 546, 551-52 (7th Cir. 1999); Matter of Carlson, 126 F.3d 915, 921-22 (7th Cir. 1997). Debtors' objection does not do so. It says only that they have filed all of their tax returns with the IRS, but says nothing about what those returns may disclose concerning their tax liability. The objection should do so.

Debtors' objection to claim number 8-1 filed by the Internal Revenue Service is OVERRULED, without prejudice.²

SO ORDERED.

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

²The court would also note that neither the objection nor the notice of the opportunity to respond have been served on the United States Attorney as required by Fed. R. Bankr. P. Rules 9013, 7004(b)(4).