

Dated: April 23, 2025
The following is ORDERED:



A handwritten signature in black ink, appearing to read "Denise E. Barnett".

Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTER DISTRICT OF TENNESSEE
WESTERN DIVISION

In re:
Ava Brown Chase,
Debtor.

Case No. 24-20787
Chapter 13

**MEMORANDUM OPINION AND ORDER OVERRULING
CHAPTER 13 TRUSTEE'S OBJECTION TO CONFIRMATION**

This case came before the Court on February 11, 2025, at 2:00 p.m., on the chapter 13 trustee's *Objection to Confirmation* and *Confirmation* hearings.¹ The only remaining issue in the chapter 13 trustee's objection to confirmation was whether Ava Brown Chase ("Ms. Chase") had filed her tax returns.² Ms. Chase has submitted her tax returns to the Internal Revenue Service ("IRS") at least twice.³ But the IRS took the position that the returns were deficient.⁴ Upon

¹ Obj. to Confirmation, ECF No. 19.

² Hr'g on Feb. 11, 2025, at 2:45 p.m.

³ Resp. to Obj. to Claim, ECF No. 26, ¶¶ 2-3.

⁴ *Id.*

review of the record, the chapter 13 trustee's objection is overruled for the reasons outlined below.

I. BACKGROUND

On February 22, 2024, Ava Brown Chase (“Ms. Chase”) filed her chapter 13 petition.⁵ Before filing for bankruptcy, Ms. Chase had not filed her 2021, 2022, or 2023 tax returns.⁶ The IRS filed its proof of claim on March 25, 2024.⁷ In its proof of claim, the IRS estimated Ms. Chase owed \$20,793.82 (unsecured priority claim) for tax years 2021, 2022, and 2023.⁸ On April 24, 2024, the chapter 13 trustee objected to confirming Ms. Chase's plan because the IRS's proof of claim indicated Ms. Chase had not filed her returns.⁹ Specifically, two footnotes in the IRS's proof of claim said, “[l]iability is estimated based on available information because the return has not been filed. This claim may be amended as necessary after the debtor files the return or provides other required information.”¹⁰ Although the IRS's proof of claim indicates Ms. Chase has not filed her tax returns, the IRS had not objected to confirmation of the chapter 13 plan or moved to dismiss the case for failure to file her tax returns.

On July 23, 2024, Ms. Chase objected to the IRS's proof of claim, moving the Court to disallow the IRS's claim or order the IRS to amend its proof of claim.¹¹ On August 28, 2024, the

⁵ Voluntary Pet., ECF No. 1.

⁶ Form 410 Attachment, Claim No. 8-1.

⁷ Claim 8-1.

⁸ *Id.* at ¶ 12.

⁹ Obj. to Confirmation, ECF No. 19, ¶ 1. The trustee's other reasons for objection to confirmation of the chapter 13 plan were all resolved.

¹⁰ Claim 8-1.

¹¹ Obj. to Claim 8, ECF No. 21.

IRS filed a response to Ms. Chase’s objection.¹² In its response, the IRS said it had “received tax returns for [2021, 2022, and 2023] on May 3, 2024.”¹³ The IRS also admitted it received “amended returns” on August 23, 2024.¹⁴ Both returns had deficiencies that prevented the IRS from processing the returns.¹⁵ The Court held a hearing on August 27, 2024, and October 22, 2024. At both hearings, Ms. Chase’s attorney said Ms. Chase had filed the returns but she needed to amend the returns.¹⁶ On November 15, 2024, Ms. Chase amended her chapter 13 plan.¹⁷ The amended plan provided for the IRS’s estimated priority claim of \$20,793.82 with \$350 monthly payments for 60 months.¹⁸ On February 10, 2025, Ms. Chase and the IRS came to an agreement, and the Court entered a consent order withdrawing Ms. Chase’s objection to the IRS’s claim.¹⁹

Almost a year after Ms. Chase filed for bankruptcy, her plan was still unconfirmed. To resolve the issue, the Court held another hearing on February 11, 2025. During the hearing, the chapter 13 trustee argued Ms. Chase’s plan could not be confirmed under 11 U.S.C. § 1325(a)(9) because the footnotes in the IRS’s proof of claim indicated Ms. Chase had not filed her tax returns for 2021, 2022, and 2023.²⁰

¹² Resp. to Obj. to Claim 8, ECF No. 26.

¹³ *Id.* at ¶ 2.

¹⁴ *Id.* at ¶ 3.

¹⁵ *Id.* at ¶¶ 2-3.

¹⁶ Hr’g on Aug. 27, 2024, at 12:04 p.m. and Hr’g on Oct. 2, 2024, at 11:02 a.m.

¹⁷ Amend. Ch. 13 Plan, ECF No. 32.

¹⁸ *Id.* at ¶ 5.

¹⁹ Consent Order Withdrawing Obj. to Claim No. 8, ECF No. 35. The *Consent Order* failed to provide any details regarding any underlying agreement other a simple withdrawal of the objection.

²⁰ Hr’g on Feb. 11, 2025, at 2:45 p.m.

Ms. Chase's attorney argued the plan was confirmable under subsection 1325(a)(9) because Ms. Chase had filed her returns and only needed to amend them.²¹ The chapter 13 trustee said if the IRS had received the returns, then it would have amended its claim.²² Ms. Chase's attorney argued the IRS is slow to amend things and she has signed returns.²³ Further, the IRS was not processing the returns because Ms. Chase needed to report gambling winnings and unemployment income.²⁴ But because the casino was no longer operating, Ms. Chase was having trouble obtaining information for her gambling winnings.²⁵ Also, Ms. Chase's plan accounts for the IRS's estimated claim.²⁶ Once the IRS processes her returns, the claim would likely decrease.²⁷ Even with the increased plan payments, Ms. Chase is current with her chapter 13 plan payments.²⁸

On February 24, 2025, the chapter 13 trustee filed her supporting brief/memorandum.²⁹ Citing IRS Publication (Rev. 1-2024), the chapter 13 trustee argued Ms. Chase's tax returns were not filed because the IRS considers rejected, e-filed tax returns not filed.³⁰ Ms. Chase submitted

²¹ *Id.*

²² *Id.* at 2:46 p.m.

²³ *Id.* at 2:47 p.m.

²⁴ *Id.* at 2:45 p.m.

²⁵ *Id.* at 2:47 p.m.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Supporting Brief/Memorandum on Trustee's Obj. to Confirmation of Plan, ECF No. 37.

³⁰ *Id.*

her tax returns for 2021, 2022, and 2023 on May 3 and August 23, 2024.³¹ Both times the IRS rejected the returns. Accordingly, the IRS does not consider the tax returns filed.³²

II. DISCUSSION³³

The issue before the Court is whether Ms. Chase *filed* her tax returns when the returns provided to the IRS needed to be amended. The objecting party carries the initial burden to produce evidence supporting an objection to confirmation of a chapter 13 plan.³⁴ The debtor has the ultimate burden to show that the plan meets the confirmation requirements under 11 U.S.C. § 1325.³⁵ To confirm a chapter 13 plan, a chapter 13 debtor must file the tax returns pursuant to 11 U.S.C. § 1308.³⁶ Subsection 1308(a) requires a chapter 13 debtor to file all tax returns due within four years before the petition date.³⁷ If a debtor fails to file the returns under section 1308, then a party in interest or the United States Trustee may move to dismiss or convert the case.³⁸ Section 1308 does not define the term “filed.”³⁹ Because the Bankruptcy Code adopts the term filed without defining it further, it is appropriate to apply applicable tax law.⁴⁰

³¹ *Id.*

³² *Id.*

³³ The Court has subject-matter jurisdiction under 28 U.S.C. § 1334(b). Venue is proper in this District. 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(L). The following shall constitute the court’s findings of fact and conclusions of the law in accordance with Rule 7052, Federal Rules of Bankruptcy Procedure.

³⁴ *In re Lofty*, 437 B.R. 578, 584 (Bankr. S.D. Ohio 2010) (citing *In re Henry*, 328 B.R. 529, 538 (Bankr. S.D. Ohio 2004)).

³⁵ *Id.* (citing *In re Hogue*, 78 B.R. 867, 872 (Bankr. S.D. Ohio 1987) and *In re Carver*, 110 B.R. 305, 311 (Bankr. S.D. Ohio 1990)).

³⁶ 11 U.S.C. § 1325(a)(9) (2025).

³⁷ 11 U.S.C. § 1308(a) (2025).

³⁸ 11 U.S.C. § 1307(e) (2025).

³⁹ *See* 11 U.S.C. § 1308 (2025).

⁴⁰ *See e.g., United States v. Hindenlang (In re Hindenlang)*, 164 F.3d 1029, 1032-1033 (6th Cir. 1999) (adopting the *Beard* test to define the term “return” for dischargeability purposes because the Bankruptcy Code did not define the term).

A. Ms. Chase has filed her tax returns.

Until 1954, the Tax Code did not define when a tax return was filed.⁴¹ Instead, the Supreme Court applied the “physical delivery rule” or “actual-receipt rule” where a return is not filed until it is “delivered or received.”⁴² Then, in 1954, Congress enacted 26 U.S.C. § 7502, creating several exceptions to the physical delivery rule.⁴³ The exceptions deem a timely mailed return timely delivered—using the mailing date instead of the delivery date.⁴⁴ Because Ms. Chase did not timely file her tax returns, section 7502 does not apply and the physical delivery rule does.

The physical delivery rule also applies to electronic filing or e-filing.⁴⁵ In *Fowler v. Commissioner of Internal Revenue*, the United States Tax Court explained when the IRS rejects an e-filed tax return, the return still satisfies the physical delivery rule.⁴⁶ In *Fowler*, the taxpayer e-filed his return.⁴⁷ Because the return was missing the tax preparer’s IP PIN, the IRS rejected the return.⁴⁸

Before addressing whether the return was delivered, the Tax Court explained the e-filing system.⁴⁹ First, the taxpayer files their tax return via the Internet.⁵⁰ Next, a computer system

⁴¹ *Carroll v. C.I.R.*, 71 F.3d 1228, 1230 (6th Cir. 1995) (citing *U.S. v. Lombardo*, 241 U.S. 73, 76 (1916)).

⁴² *Id.* at 1231-1232 (citing *Estate of Wood v. Comm’r*, 909 F.2d 1155, 1159 (8th Cir. 1990); rejecting the holding in *Wood* that a mailed tax return is presumed delivered two or three days later).

⁴³ *Id.* at 1230.

⁴⁴ See 26 U.S.C. § 7502(a)(1) (2025) (“[T]he date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery....”).

⁴⁵ *Fowler v. Comm’r*, 155 T.C. 106, 116 (2020).

⁴⁶ *Id.*

⁴⁷ *Id.* at 108.

⁴⁸ *Id.* at 116.

⁴⁹ *Id.*

⁵⁰ *Id.* (citing IRM pt. 3.42.5.23.1 (Oct. 1, 2011), 3.42.5.24.4(1) (Oct. 1, 2010)).

converts the data to a tax return.⁵¹ All e-filed returns are stored in an official IRS repository.⁵² The system checks for errors.⁵³ If the system finds no errors, it accepts the return and forwards it to the IRS system that processes paper returns.⁵⁴ If it rejects the return, it responds with an error message indicating why it was rejected.⁵⁵ The Tax Court explained because the IRS's system received and reviewed the return, the taxpayer had properly filed his taxes.⁵⁶

Like *Fowler*, the IRS rejected Ms. Chase's tax returns. But the record shows the IRS has received and reviewed Ms. Chase's returns. In the IRS's response to the Objection to Claim, it admitted it had received her return on May 3, 2024, and "amended returns" on August 23, 2024. Although the IRS rejected both returns, under the physical delivery rule, the returns have been filed.

B. The chapter 13 trustee's arguments are unpersuasive.

The chapter 13 trustee made two arguments. First, during the hearing on March 11, 2025, the chapter 13 trustee argued because the footnotes in the IRS's proof of claim indicated Ms. Chase had not filed her returns, the plan did not satisfy subsection 1325(a)(9). Second, in her supporting brief/memorandum, the chapter 13 trustee argued under IRS Publication 1345 (Rev. 10-2024) the IRS does not consider the returns filed. Both arguments are unpersuasive.

First, although the IRS's proof of claim indicates Ms. Chase has not filed her returns, it is not dispositive for sustaining the chapter 13 trustee's objection. Before Ms. Chase had filed her

⁵¹ *Id.* (citing IRM pt. 3.42.5.23.1 (Oct. 1, 2011), 3.42.5.24.4(1) (Oct. 1, 2010)).

⁵² *Id.* (citing IRS Pub. 4164 (Rev. 12-2013), at 135; IRM pt. 3.42.5.24.4(1)).

⁵³ *Id.* (citing IRS Pub. 4164 (Rev. 12-2013), at 135; IRM pt. 3.42.5.24.4(1)).

⁵⁴ *Id.* (citing IRM pt. 3.42.5.24.4(1)(j)).

⁵⁵ *Id.* (citing IRS Pub. 4164 (Rev. 12-2013), at 131-132, 141-142; IRM pt. 3.42.5.25(3)).

⁵⁶ *Id.* ("In general, a return is "filed" when it has been physically delivered to the correct IRS office.") (citations omitted).

returns and amended returns with the IRS, the IRS filed its proof of claim on March 25, 2024. The IRS responded to Ms. Chase's objection to its claim on August 28, 2024. In its response to Ms. Chase's objection, the IRS admitted Ms. Chase had delivered the tax returns to the IRS and the amended tax returns. Accordingly, under the physical delivery rule, the record shows Ms. Chase has filed her returns.

Second, the chapter 13 trustee's argument under IRS Publication 1345 (Rev. 10-2024) is unpersuasive. IRS Publications are meant to provide taxpayers with educational information.⁵⁷ Similar to opinion letters, "they lack the force of law."⁵⁸ In this case, the IRS Publication directly contradicts the persuasive case law. Under the physical delivery rule and *Fowler*, Ms. Chase has filed her returns, satisfying subsection 1325(a)(9).

C. Ms. Chase does not benefit from the IRS not processing her tax return.

Further, Ms. Chase is not benefitting from her unprocessed tax returns. Her chapter 13 plan provides for the full amount of the IRS's estimated claim. It is likely that Ms. Chase's tax liability will be less than the IRS estimates upon the filing of her amended tax returns. If the amended returns result in a higher tax debt that is not provided for and paid through the chapter 13 plan, upon completion of the chapter 13 plan payment and receipt of discharge, Ms. Chase's unpaid obligation will likely remain undischarged. The Court implores Ms. Chase to obtain a copy of her tax transcript from the IRS and amend her federal income tax returns at her earliest convenience.

⁵⁷ <https://www.irs.gov/newsroom/general-overview-of-taxpayer-reliance-on-guidance-published-in-the-internal-revenue-bulletin-and-faqs>.

⁵⁸ *Christensen v. Harris County*, 529 U.S. 576, 587 (2000)). See also *Zimmerman v. Comm'r*, 71 T.C. 367, 371 (1978) ("We find this analysis not only unpersuasive but beside the point, since the authoritative sources of Federal tax law are in statutes, regulations, and judicial decisions and not in such informal publications.").

III. CONCLUSION AND ORDER

For the reasons stated above, the Court finds and concludes the chapter 13 trustee's remaining objection to confirmation is overruled, the chapter 13 plan is confirmed, and a Confirmation Order consistent with this Memorandum Opinion and Order should be entered.

Accordingly, it is **ORDERED**:

1. The chapter 13 trustee's remaining objection to confirmation regarding the filing of Ms. Chase's tax returns is **OVERRULED**.
2. Ms. Chase's chapter 13 plan is **CONFIRMED**.
3. The chapter 13 trustee is directed to prepare for entry a Confirmation Order consistent with this *Memorandum Opinion and Order*.