

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In Re:)
) **GENERAL ORDER**
)

And now, to-wit, this 18th day of November, 1988, after notice and hearing held on October 28, 1987, the Court finds that there is a need for a General Order in the Bankruptcy Court for the Western District of Pennsylvania applicable to certain activities of the Internal Revenue Service (IRS), and other taxing bodies.

Therefore it is **ORDERED:**

STATE AND LOCAL TAXES

1. a. Within sixty (60) days of the date of the initial filing of a bankruptcy petition each debtor or debtor-in-possession shall file any and all state and local tax returns which are due but unfiled as of the date of the filing of the bankruptcy petition. Said returns shall include all income, estate, gift, sales, excise and employment tax returns.
- b. These returns shall be filed with the appropriate taxing body.
- c. Thereafter each debtor or debtor-in-possession shall timely file all required tax returns.

FEDERAL TAXES

2. a. Within sixty (60) days of the date of the initial filing of a bankruptcy petition each debtor or debtor-in-possession shall file any and all federal tax returns which are due but unfiled as of the date of the filing of the bankruptcy petition. Said returns shall include all income, estate, gift, excise and employment [including Forms 941 and 940] tax returns.
- b. These returns shall be filed with the IRS, Special Procedures Function, P.O. Box 628, Pittsburgh, Pennsylvania 15230.
- c. Thereafter each debtor or debtor-in-possession shall timely file all required tax returns.

IRS ASSESSMENTS

3. a. In every Chapter 7, 11, 12 and 13 case filed hereafter, the IRS shall be deemed not to be in violation of the automatic stay provisions of the Bankruptcy Code, 11 U.S.C. §362, when it assesses prepetition tax liabilities and/or deficiencies and/or adjustments with respect to any voluntarily filed return or agreed upon deficiencies, liabilities and/or adjustments.

As used herein the term "assessment" shall be defined to mean the formal recordation of the debtor's tax liability(ies) on an assessment certificate together with the recordation into

the IRS books, records, and computers of such supporting information as the name of the debtor-taxpayer, type of tax(es), taxable period(s), and specific amount of each type of tax.

- b. Any statutory lien which arises by virtue of the assessment described herein is deemed to be void pursuant to 11 U.S.C. §545.
- c. Nothing herein authorizes the IRS to file, record or otherwise perfect any lien arising by virtue of the assessment described herein. Any liens so filed, recorded or otherwise perfected in violation of this Order shall be considered a violation of 11 U.S.C. §362 which may subject the IRS to sanctions. However, nothing herein shall preclude the IRS from providing the debtor, the debtor's attorney, the trustee, the court, and such other parties as may be directed by the court, with a notice of the assessment described herein.
- d. Nothing herein shall be deemed to affect the distribution, status or priority attributable to the IRS in any case filed.

IRS REFUNDS

- 4.
 - a. The IRS hereby is granted leave to retain any tax refund due a debtor or debtor-in-possession, such retention by the IRS not to exceed a period of sixty (60) days after submission by the debtor or debtor-in-possession of a written request for the refund.
 - b. Said written request shall be addressed to IRS, Special Procedures Function, P.O. Box 628, Pittsburgh, PA 15230, and copies of same must be filed with the United States Trustee, Room 319, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222, with any trustee appointed, and with the Clerk of the U.S. Bankruptcy Court, Room 1602 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.
 - c. Said written request must include: (1) Taxpayer Identification Number [SSN or EIN]; (2) taxable period; (3) type of tax; (4) amount claimed. In lieu of this information the request should be accompanied with a copy of the actual claim file which gave rise to the refund.
 - d. By virtue of the 60-day leave granted herein such action by the IRS hereby is deemed not to be a contemptuous violation of the automatic stay provisions of the Bankruptcy Code, 11 U.S.C. §362.

SANCTIONS

- 5.
 - a. Failure by any debtor or debtor-in-possession to comply with paragraphs 1 and 2 of this General Order shall result in the issuance of a Rule to Show Cause why debtor or debtor-in-possession should not be held in contempt of Court and/or why other appropriate sanctions should not be imposed.
 - b. Any violation of this Order by any taxing body shall result in the issuance of a rule to Show Cause why the taxing body should not be held in contempt of court and why sanctions should not be imposed.

SO ORDERED, this 18th day of November, 1988, effective 5th day of December, 1988.

BY THE COURT,

/S/ Joseph L. Cosetti
Chief Judge
United States Bankruptcy Court

/S/ Warren W. Bentz
Warren W. Bentz
United States Bankruptcy Judge

Bernard Markovitz
United States Bankruptcy Judge

/S/ Judith K. Fitzgerald
Judith K. Fitzgerald
United States Bankruptcy Judge