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JUDGE: M. A. Mahoney  
PARTIES: Barbara Ann Sawyer  
CHAPTER: 13  
ATTORNEYS:  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA

In Re

BARBARA ANN SAWYER,

Case No. 95-11552-MAM-13

Debtor.

**ORDER DENYING CONFIRMATION**  
**OF DEBTOR'S CHAPTER 13 PLAN**

This matter came before the Court for the confirmation hearing on Ms. Barbara Sawyer's Chapter 13 plan dated August 10, 1995. The United States of America Internal Revenue Service (the IRS) orally objected. This Court has jurisdiction to hear this case pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L). For the reasons indicated below, confirmation of the plan is denied.

Barbara Sawyer filed this Chapter 13 case on June 26, 1995. Her amended plan of August 10, 1995 proposes to pay:

1. 100% of Whitney Bank arrearage claim (unspecified amount) at a rate of \$300 per month until paid.
2. 100% of IRS tax priority claim of \$12,000.
3. 100% of State of Alabama tax priority claim of \$1,000.
4. Unsecured creditors—3.4% of each total claim.

Debtor will pay \$300 per month toward these claims for five years. Total payments in a five-year plan would be \$18,000.

The evidence presented at the hearing showed that the IRS has the following approximate claims:

1986	\$25,788
1987	19,117
1988	16,039
1989	18,898
1991	75,253
1992	43,753
1994	filed tax return and paid

The IRS had no record of Debtor's 1993 return but Ms. Sawyer testified that she had filed it.

In 1994, Ms. Sawyer had filed a prior Chapter 13 case, Case No. 94-10035. Pursuant to a plan confirmed on March 1, 1994, Ms. Sawyer paid \$2,000 per month toward her debts which included a debt to the IRS. This case was dismissed on March 15, 1995 when the debtor had ceased payments under her plan. During the case, the IRS had filed a claim for \$219,046.82. It included all the taxes listed above. Under the plan, before dismissal, the IRS may have been paid as much as \$24,000 which would reduce the IRS claim to approximately \$200,000 in this case.

Ms. Sawyer testified that she could pay no more than \$300 per month toward a plan based on her income. Since the death of her husband (with whom she owned a used car sales lot which she now manages alone), her income has dropped drastically.

Section 1322(a)(2) of the Bankruptcy Code requires a Chapter 13 plan to "provide for the full payment . . . of all claims entitled to priority under Section 507 [of the Code]." Priority claims include governmental claims for income taxes which had a filing deadline within three years before the bankruptcy filing of a debtor. 11 U.S.C. § 507(a)(8)(A). This would require Ms. Sawyer to pay at least \$43,753 over the life of her plan to the IRS as a priority claim. Her plan, whether three or five years in length, does not come close to meeting this figure. Even if

all of the approximately \$24,000 paid in her 1994 Chapter 13 toward the IRS debt is credited to the \$43,753 amount, and no interest is added to the balance, it alone still exceeds her total plan payments by over \$1,000. Her plan would also require that some of the \$18,000 pay Whitney Bank and the State of Alabama. The Debtor did not show that her plan complied with the requirement of 11 U.S.C. § 1322(a)(2).

Therefore, it is ORDERED that confirmation of the plan of August 10, 1995 is DENIED.

Dated: August 15, 1995

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MARGARET A. MAHONEY  
U.S. BANKRUPTCY JUDGE