

Bankrupt Quirky Ducks Most Of \$1M IRS Payroll Tax Claim

By **Matthew Guarnaccia**

Law360, New York (July 29, 2016, 8:37 PM ET) -- A New York bankruptcy judge allowed defunct invention incubator Quirky Inc. to sidestep an Internal Revenue Service claim for more than \$900,000 in unpaid payroll taxes and other charges Friday.

U.S. Bankruptcy Judge Martin Glenn said Quirky will no longer face a tax burden under the Federal Insurance Compensation Act and the Federal Unemployment Tax Act, but must turn over over certain tax forms to the IRS. Judge Glenn said, however, that information on those forms could result in a new claim from unassessed charges and examinations and ordered the company, which is in Chapter 11, to set aside \$20,000 in case the claim is allowed and set as a priority.

“The IRS reserves its rights to argue that, to the extent the amended tax claim is allowed as a priority claim ... and exceeds the reserve, the IRS shall receive the remaining balance of the amended tax claim from the priority claims reserve,” Judge Glenn said.

The IRS launched its claim in November, saying Quirky failed to pay \$936,963.30 in payroll taxes in 2015 and another \$5,720.90 in additional charges between 2013 and 2014.

Quirky hit back at the claim in June, saying the amount was too high and at odds with the company’s records.

In his order on Friday, Judge Glenn said the IRS could focus only on the portion of the claim regarding additional charges and entirely disallowed and expunged the payroll tax claims.

Quirky has 60 days to turn over tax forms from 2013 and 2014 to the IRS or to submit an affidavit detailing why the documents aren’t necessary. The IRS has an additional 60 days from the submission of the documents or affidavit to submit an amended tax claim.

Quirky filed for Chapter 11 in September after laying off more than 150 employees. Quirky listed \$53.9 million in assets and \$136.8 million in liabilities in its filings.

Judge Glenn in November approved a \$15 million sale of Quirky’s Wink Inc. affiliate, which develops technology to facilitate control of basic household systems over wireless internet, to Flextronics International.

Judge Glenn also approved the sale of Quirky’s assets to Q Holdings LLC in December after Q Holdings

bumped its initial offer of \$2.3 million to \$4.7 million. The approval came over the objections of the unsecured creditors and General Electric Co.

The sale included Quirky's trademark domain name and various products the company helped develop, including the Pivot Power brand power strip and Cordies brand computer cable organizer.

Counsel for Quirky and representatives for the IRS did not respond Friday to requests for comment.

Quirky is represented by Jeffrey Cohen Michael A. Klein and Richelle Kalnit of Cooley LLP. The debtor's conflicts counsel is Klestadt Winters Jureller Southard & Stevens LLP.

The committee is represented by Melanie L. Cyganowski of Otterbourg PC.

The case is In re: Quirky Inc., case number 1:15-bk-12596, in the U.S. Bankruptcy Court for the Southern District of New York.

--Additional reporting by Rick Archer. Editing by Richard McVay and Jill Coffey.