
BANKRUPTCY APPELLATE PANEL SUMMARY

June 2016

In re Bratt, 549 B.R. 462 (B.A.P. 6th Cir. 2016). **Issue:** Whether a bankruptcy-specific state statute constitutes a "nonbankruptcy law" under 11 U.S.C. § 511(a). **Facts:** A chapter 13 debtor owed delinquent property taxes secured by a lien. The lienholder possessed an oversecured claim. The debtor's chapter 13 plan proposed to pay the lienholder 12% interest. **Law:** The interest rate for tax claims is determined by 11 U.S.C. § 511(a), which provides: "If any provision of this title requires the payment of interest on a tax claim . . . the rate of interest shall be the rate determined under applicable nonbankruptcy law." **Procedure:** The lienholder objected to confirmation, arguing that it was entitled to 18% interest under Tenn Code Ann. § 67-5-2010(d)("2010(d)"), which provides: "For purposes of any claim in a bankruptcy proceeding pertaining to delinquent property taxes, the assessment of penalties determined pursuant to this section constitutes the assessment of interest." The

bankruptcy court overruled the objection, concluding that 2010(d) violated the Supremacy Clause of the United States Constitution. The lienholder appealed. **Holding:** 2010(d), a bankruptcy-specific state statute, does not constitute a "nonbankruptcy law" under 11 U.S.C. § 511(a). **Analysis:** The BAP agreed with the bankruptcy court's result, but not its rationale. Section 511(a) requires bankruptcy courts to use an interest rate that is determined under "nonbankruptcy law." This reference to "nonbankruptcy law" is more than a distinction between the Bankruptcy Code and everything else. 2010(d) is a "bankruptcy law" because it is a bankruptcy-specific statute that creates an interest rate used only in bankruptcy cases. Therefore, 2010(d) does not control because it is not a "nonbankruptcy law." Because 2010(d) is inapplicable, it is unnecessary to address the Constitutional issue. **AFFIRMED.**