

CLIENT ALERTS

\$7,500,000 Maximum Debt Threshold for Subchapter V Small Business Debtor Reorganization Cases Under Bankruptcy Threshold Adjustment and Technical Corrections Act Expired on June 21, 2024

Client Alert

6.27.2024

On June 21, 2024, the Bankruptcy Threshold Adjustment and Technical Corrections Act ("Act") sunset. Under the Act, Congress had increased the maximum debt threshold (aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the bankruptcy petition) for eligible small business debtors seeking reorganization relief under Subchapter V of chapter 11 of the Bankruptcy Code from \$2,725,625 to \$7,500,000. But the threshold increase, enacted as part of the CARES Act legislation to provide continuing bankruptcy relief to small business debtors seeking to reorganize, was temporary and would sunset, that is, expire, on June 21 and thereafter revert to the original amount of \$2,725,625 plus scheduled Consumer Price Index dollar adjustments pursuant to section 104 of the Bankruptcy Code. Consequently, as of June 21, the maximum threshold amount for Subchapter V cases filed after June 21 is \$3,024,725.

All that said, the lower maximum debt threshold amount now in effect for Subchapter V filings may be temporary because on April 17, 2024, Senator Richard Durbin, with bi-partisan support, introduced S. Bill 4150, entitled "Bankruptcy Threshold Adjustment Extension Act", that would amend the Act to extend, among other things, the \$7,500,000 maximum debt threshold for Subchapter V filings for an additional 2-year period. The bill is currently under committee review. If passed, the eligibility requirements under Subchapter V would return the higher maximum debt threshold of \$7,500,000 plus any statutory dollar adjustments to June 21, 2026.

We will monitor the status of S. Bill 4150 and report through future Client Alerts the progress, and hopefully the passage of, the Bill. In the meantime, small business debtors will be wise to consult

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with an experienced bankruptcy attorney on timing of when to file a Subchapter V reorganization case.

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