
Recent ResCap Decision Holds That Fair Market Value Note Exchange Does Not Create Original Issue Discount for Bankruptcy Claims Purposes

Date: 11/27/13

On November 15, 2013, the United States Bankruptcy Court for the Southern District of New York (Glenn, J.) issued a lengthy decision in the Chapter 11 case of Residential Capital, LLC (“ResCap”). An important holding contained in this decision is that the bankruptcy claims of holders of notes issued with original issue discount (or OID) for tax and accounting purposes in a “fair value” exchange (an exchange for notes with a lower face amount) need not be reduced by any unaccreted OID.

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