von Briesen
von Briesen & Roper, s.c. | Attorneys at Law

Debt Recharacterization: Does State or Federal Law Apply?

Jun 09 2021

Posted By: David I. Cisar & William D. Gardner & Christopher T. Koehnke

Practice Area: Restructuring and Insolvency

Debt recharacterization is the concept or process of determining whether putative claims against a debtor are equity rather than debt. It is distinguished from equitable subordination under § 510 (c) of the Bankruptcy Code, as it is not based on inequitable conduct. The conduct of the parties to a transaction that is subject to recharacterization is only relevant to determining the parties intent and is not for purposes of finding inequitable conduct. This article only discusses transaction recharacterization, not equitable subordination.