FILED

AUG 4 2026

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

FOR PUBLICATION

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT**

In re: A CAB, SERIES L.L.C., Debtor.	BAP No. NV-25-1205-GCB Bk. No. 22-14361-nmc
LEON GREENBERG PROFESSIONAL CORPORATION; MICHAEL MURRAY, on behalf of himself and 660 additional creditors, Appellants, v. A CAB, SERIES L.L.C., Appellee.	**OPINION**

Appeal from the United States Bankruptcy Court
for the District of Nevada
Natalie M. Cox, Chief Bankruptcy Judge, Presiding

APPEARANCES:

Leon Greenberg argued for appellants; Matthew C. Zirzow of Larson & Zirzow LLC argued for appellee.

Before: GAN, CORBIT, and BRAND, Bankruptcy Judges.

GAN, Bankruptcy Judge:

INTRODUCTION

Leon Greenberg, P.C. ("Greenberg") and Michael Murray, on behalf of himself and 660 additional creditors (collectively the "Murray Creditors"), appeal the bankruptcy court's order confirming the plan of chapter 11[1] debtor, A Cab, Series, L.L.C. ("Debtor") under subchapter V. Despite the plan providing for full payment of the Murray Creditors' claims with interest over five years, they argue the bankruptcy court should not have confirmed the plan because Debtor's projected disposable income includes deductions for taxes on "pass-through" income for which its sole member is legally responsible.[2]

The Murray Creditors argue that, as a matter of law, a subchapter V debtor cannot deduct taxes for which it has no liability. Alternatively, they argue the court should have limited the deduction to the income tax for which Debtor would have been liable had it elected to be taxed as a corporation.

The Bankruptcy Code does not prohibit a subchapter V debtor from deducting pass-through income tax from its projected disposable income. The reasonableness of a debtor's projected disposable income, and the ultimate decision whether a plan is fair and equitable, are factual questions.

---

[1] Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532.

[2] Debtor's consolidated financial statements indicate that it is a single-member Limited Liability Company, and it elected to be taxed as a sole proprietorship.

The Murray Creditors do not demonstrate clear error by the bankruptcy court in its factual findings, and we AFFIRM.

We publish to clarify that under subchapter V there is no per se rule against deducting taxes on pass-through income from a debtor's projected disposable income. Subchapter V is designed to facilitate reorganization of small businesses, many of which are taxed as sole proprietorships. As part of confirming a subchapter V plan as fair and equitable, bankruptcy courts have discretion to determine whether deductions from projected disposable income are reasonably necessary for the continuation, preservation, or operation of the debtor's business.

FACTS[3]

A. Prepetition events

Debtor is a Nevada series LLC[4] that operates a taxicab service in Las Vegas, Nevada. Creighton J. Nady is Debtor's manager and the manager of each active series within it. Debtor's sole member is the Laurie Nady Family Trust, and Nady and his wife are the trustees of the trust.

In 2012, the Murray Creditors brought a class-action lawsuit against Debtor for violations of the Nevada Minimum Wage Act and the Nevada

[3] We exercise our discretion to take judicial notice of documents electronically filed in the bankruptcy case. *See Atwood v. Chase Manhattan Mortg. Co. (In re Atwood)*, 293 B.R. 227, 233 n.9 (9th Cir. BAP 2003).

[4] Debtor is the "top-level" or "parent" LLC. It has various "series" or "cells" within it that engage in administration, operations, and maintenance, and which employ drivers and hold ownership of vehicles.

Constitution. In 2018, the state court entered judgment in favor of the Murray Creditors. Debtor appealed, and after remittitur from the Nevada Supreme Court, the state court entered a judgment in favor of the Murray Creditors in the approximate amount of $870,000 in December 2022. The state court entered a modified award of attorney's fees in favor of Greenberg, including interest through December 2022, in the approximate amount of $744,000.

The Murray Creditors continued efforts to collect their judgments, including filing an action to appoint a receiver over Debtor's business, and an action to recover alleged fraudulent transfers to Nady and his family. The Murray Creditors also filed a motion seeking authority to disburse $303,694.54 from Greenberg's trust account, which they previously garnished from one of Debtor's affiliated cells.

B. Debtor's bankruptcy case and initial plan

In December 2022, Debtor filed a chapter 11 petition and elected to proceed under subchapter V. Debtor appealed the award of attorney's fees to Greenberg, and it filed a notice of removal of all matters pertaining to the state court case.

Debtor filed an initial chapter 11 plan, which proposed to pay a portion of the Murray Creditors' claims over five years from disposable income. The Murray Creditors objected to confirmation, and they filed a motion for summary judgment arguing the plan was unconfirmable as a matter of law. They contended that Debtor improperly deducted pass-through tax liability from its projections of disposable income. The bankruptcy court denied summary judgment without prejudice to the Murray Creditors raising the issues and arguments at the confirmation hearing.

After an evidentiary hearing in March 2024, the bankruptcy court denied confirmation of Debtor's plan. The court held that the plan did not satisfy § 1129(a)(7) because Debtor did not account for the value of potential fraudulent transfers and other assets, and it did not satisfy § 1191(c) because Debtor's projections of disposable income included excessive amounts for employee-related expenses without identifying the number of employees or explaining the relationship between the parent LLC and the various series regarding the employees.

C. The amended plan

In June 2024, Debtor filed an amended plan which proposed to pay the Murray Creditors' allowed claims in full over five years.[5] The amended plan proposed payments to unsecured creditors from the following sources: (1) $1,656,000 from projected disposable income; (2) $303,694.54 held in Greenberg's trust account which had been garnished prepetition; (3) an Employee Retention Tax Credit ("ERTC") in an estimated amount of $570,905 which Debtor expected to receive from the IRS; and (4) a final

[5] Debtor disputed Greenberg's fee award, which was the subject of the pending appeal to the Nevada Supreme Court. In September 2023, the bankruptcy court granted stay relief to allow the appeal to proceed.

payment at the end of the plan term to satisfy any outstanding amounts. The amended plan also provided for preservation of estate avoidance actions until all allowed claims were paid in full. The amended plan authorized Nady to make additional contributions if necessary, and it required him to contribute net proceeds from the sale or refinance of real property held by a non-debtor entity owned by Nady, which the Murray Creditors alleged could be the subject of an avoidance action.

The Murray Creditors objected to confirmation of the amended plan. They argued it improperly sought to administer the funds held by Greenberg, which were not property of the estate. They claimed that Debtor understated its liquidation value, and if it properly accounted for potential avoidance claims and its taxicab medallions, Debtor would be solvent and required to pay post-petition interest to unsecured creditors. The Murray Creditors again objected that Debtor improperly proposed to pay income taxes on pass-through income for which it had no legal liability.

In response, Debtor noted the plan did not characterize the funds held by Greenberg as property of the estate; it merely authorized Greenberg to distribute those funds in partial satisfaction of the Murray Creditors' claims. Debtor agreed to modify the plan to provide for post-petition interest at the Nevada judgment rate on the Murray Creditors' claims, and it argued that full payment with interest made the tax deduction issue largely irrelevant. Debtor further argued that nothing in the Bankruptcy Code prevents a subchapter V debtor from deducting taxes on pass-through income in calculating its projected disposable income.

According to Debtor, the Murray Creditors were advocating that Debtor be required to pay "gross" or "pre-tax" income, but the term "disposable income" contemplates income net of expenses, including taxes. Debtor argued that distributions to a debtor LLC's owner to cover taxes incurred from business operations are necessary obligations of the business, and it analogized to cases under chapter 13 where "disposable income" is clearly determined net of taxes. Debtor cited Judge Paul W. Bonapfel's SBRA Guide[6] in support of its argument that a disregarded entity should be allowed to deduct tax liability on pass-through income for purposes of disposable income.

D. The bankruptcy court's ruling

At the hearing, the parties stated their intention to rely on the record and submitted declarations. Neither party called or cross-examined any witness, and they stipulated to admission of all exhibits. They filed additional briefing after the hearing, and over the next several months, Debtor agreed to additional concessions to the Murray Creditors.

In August 2025, the Nevada Supreme Court affirmed the Murray Creditors' judgment, including the modified award to Greenberg. In

[6] Hon. Paul W. Bonapfel, A Guide to the Small Business Reorganization Act of 2019, (Rev. June 2022), available at: https://www.ganb.uscourts.gov/sites/default/files/sbra_guide_pwb.pdf (last visited August 1, 2026).

September 2025, the court announced its decision to confirm the amended plan.

The bankruptcy court held that the plan satisfied § 1191(c)(2) because it provided that all projected disposable income over five years would be applied to make plan payments. It overruled the Murray Creditors' objections and reasoned that the payment of pass-through income tax was reasonably necessary for the continuation, preservation, and operation of the business.

The bankruptcy court entered its order confirming the amended plan, and the Murray Creditors timely appealed.

JURISDICTION

The bankruptcy court had jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2)(L). We have jurisdiction under 28 U.S.C. § 158.

ISSUES

Did the bankruptcy court commit legal error by confirming a plan that deducts tax liability on pass-through income from Debtor's calculation of projected disposable income?

Was the bankruptcy court required to limit Debtor's deduction for taxes to the amount it would have been required to pay if it elected to be treated as a C corporation for tax purposes?

STANDARDS OF REVIEW

We review a bankruptcy court's decision to confirm a chapter 11 plan for abuse of discretion. *Marshall v. Marshall (In re Marshall)*, 721 F.3d 1032, 1045 (9th Cir. BAP 2013), *aff'd*, 137 F.4th 1008 (9th Cir. 2025). A bankruptcy court abuses its discretion if it applies an incorrect legal standard or its factual findings are illogical, implausible, or without support in the record. *TrafficSchool.com, Inc. v. Edriver Inc.*, 653 F.3d 820, 832 (9th Cir. 2011).

We review the bankruptcy court's interpretation of the Bankruptcy Code de novo. *Mission Hen LLC v. Lee (In re Lee)*, 655 B.R. 340, 346 (9th Cir. BAP 2023), *aff'd,* 137 F.4th 1008 (9th Cir. 2025). "De novo review requires that we consider a matter anew, as if no decision had been made previously." *Francis v. Wallace (In re Francis)*, 505 B.R. 914, 917 (9th Cir. BAP 2014).

A bankruptcy court's determination that a chapter 11 plan is "fair and equitable" is a factual finding that we review for clear error. *First S. Nat'l Bank v. Sunnyslope Hous. Ltd. P'ship (In re Sunnyslope Hous. Ltd. P'ship)*, 859 F.3d 637, 646 (9th Cir. 2017) (en banc), *as amended* (June 23, 2017) (citing *Acequia, Inc. v. Clinton (In re Acequia, Inc.)*, 787 F.2d 1352, 1358 (9th Cir. 1986)). Factual findings are clearly erroneous if they are illogical, implausible, or without support in the record. *Retz v. Samson (In re Retz)*, 606 F.3d 1189, 1196 (9th Cir. 2010).

DISCUSSION

According to the Murray Creditors, the bankruptcy court erred by confirming the plan because, as a matter of law, a subchapter V debtor cannot deduct taxes for pass-through income in calculating its projected disposable income under § 1191(d). Alternatively, they argue the court erred by permitting Debtor to deduct taxes at the individual income tax rate of 30.6% because it could have elected tax treatment as a C corporation and thus would have been liable for income taxes at the lower corporate rate of 21%.

A. Law governing confirmation of plan under subchapter V

"Congress enacted subchapter V as an expedited process for small business debtors to reorganize quickly, inexpensively, and efficiently." *Legal Serv. Bureau, Inc. v. Orange Cnty. Bail Bonds, Inc. (In re Orange Cnty. Bail Bonds, Inc.)*, 638 B.R. 137, 146 (9th Cir. BAP 2022) (citation modified). Under subchapter V, the bankruptcy court can confirm a nonconsensual plan if it satisfies the requirements of § 1129(a), other than (a)(8), (10), and (15), and the court determines the "plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." § 1191(b).

Section 1191(c)(2) provides that the term "fair and equitable," for purposes of § 1191(b), includes the minimum requirement that:

> (A) the plan provides that all of the projected disposable income of the debtor to be received in the 3-year period, or such longer period not to exceed 5 years as the court may fix . . . will be applied to make payments under the plan; or
> (B) the value of the property to be distributed under the plan in the 3-year period, or such longer period not to exceed 5 years as the court may fix . . . is not less than the projected disposable income of the debtor.

"In other words, a plan must commit the debtor's projected disposable income or pledge other payments having a present value of at least that amount." *In re Orange Cnty. Bail Bonds, Inc.*, 638 B.R. at 146.

Section 1191(d) defines "disposable income" in relevant part as "income that is received by the debtor and that is not reasonably necessary to be expended . . . for the payment of expenditures necessary for the continuation, preservation, or operation of the business of the debtor." The definition of disposable income in § 1191(d) is substantially the same as the definition of disposable income in §§ 1129(a)(15), 1225(b)(2), and 1325(b)(2), except that an individual debtor in chapter 11 or 13 can also deduct charitable contributions.[7]

B. Section 1191(d)(2) does not prohibit a debtor from deducting pass-through income tax expenditures.

The Murray Creditors argue that Debtor has no legal responsibility to pay income taxes on behalf of its members, and consequently, it cannot deduct the taxes for purposes of calculating its projected disposable income. They primarily rely on *Giliam v. Speier (In re KRSM Properties, LLC)*, 318 B.R. 712 (9th Cir. BAP 2004), for the proposition that the filing of the bankruptcy case cannot alter Debtor's tax status. The Murray Creditors

[7] Section 1191(d)(1) also permits an individual subchapter V debtor to deduct reasonably necessary expenses for "the maintenance or support of the debtor or a dependent of the debtor" and payment of "a domestic support obligation that first becomes payable after the date of the filing of the petition."

argue that Nady enjoys the benefits of Debtor's status and must equally bear the burdens.

But *KRSM Properties* does limit the bankruptcy court's authority to approve reasonable deductions from projected disposable income. In *KRSM Properties*, we affirmed the bankruptcy court's holding that a chapter 7 trustee could avoid as a preference capital gains taxes paid by a single-member LLC on behalf of its owner. *Id.* at 720. Whether a debtor LCC's income is property of the estate and whether pass-through tax liability is the separate legal obligation of its members are not at issue in this appeal. The question here is whether a bankruptcy court has authority to allow payment of such taxes as a reasonably necessary deduction from disposable income.

Section 1191(d)(2) does not limit a debtor's deductions from disposable income to only those obligations for which it has legal responsibility. It allows deductions for any expenditure which is reasonably necessary for the "continuation, preservation, or operation" of the debtor's business. In each case, the bankruptcy court must decide whether projected expenses are reasonably necessary.

Whether expenses are reasonably necessary to a debtor's business is a factual determination. *See Saldana v. Bronitsky (In re Saldana)*, 122 F.4th 333, 339-40 (9th Cir. 2024) (disposable income under chapter 13 requires the court to make a "factual determination" of "which expenses are reasonable (and deductible)" from a debtor's income) (citing *In re Bruce*, 484 B.R. 387, 390 (Bankr. W.D. Wash. 2012)); *Broken Bow Ranch, Inc. v. Farmers Home Admin. (In re Broken Bow Ranch, Inc.)*, 33 F.3d 1005, 1008 (8th Cir. 1994) (disposable income under chapter 12 requires "a fact-intensive inquiry" into whether the debtor has "income which is in excess of that *reasonably* required for maintenance and continuation of its farming operation") (citation modified).

Nothing in the Bankruptcy Code prohibits a bankruptcy court—as part of this fact-intensive inquiry—from determining it is reasonably necessary to a debtor's business that it make sufficient distributions to an owner to cover tax liability on pass-through income. Otherwise, "the owner[] will owe a tax on the business income but will receive no money to pay it." Bonapfel, *supra* n.6, at 147. "When the generation of income by a business gives rise to taxation, it seems appropriate to determine disposable income on an after-tax basis, regardless of the tax status of the business." *Id.* There is no per se prohibition as the Murray Creditors contend.

Because deductions from disposable income are not restricted to legal obligations of the Debtor, there is no basis to limit the deduction to the corporate rate which Debtor would be obligated to pay if it elected corporate tax status. The Bankruptcy Code does not prohibit deducting taxes on pass-through income; the propriety of such deductions necessarily depends on the factual circumstances of each case.

C. The bankruptcy court did not clearly err by finding the tax deduction was reasonably necessary to the continuation, preservation, or operation of Debtor's business.

The bankruptcy court held the plan was fair and equitable to the Murray Creditors because it provides for full payment of their claims, with interest at the Nevada judgment rate, and it commits Debtor's projected disposable income for five years. The court determined that all expenses in Debtor's plan projections were reasonably necessary for the continuation, preservation, or operation of Debtor's business.

The Murray Creditors maintain the bankruptcy court had no basis for holding that the taxes were reasonably necessary to Debtor's business, or that full payment of their claims "militates against any alleged prejudice the [Murray Creditors] claim they will incur as a result of any particular expense line item in the Plan Projections." We disagree.

The bankruptcy court considered Nady's testimony that he relied on distributions from Debtor to pay taxes on the income generated by the business. Nady stated that if he were required to personally pay taxes on Debtor's income without those distributions, it would create an "incredible hardship." The Murray Creditors had an opportunity to cross-examine Nady but chose not to do so. And they presented no evidence to controvert Nady's testimony regarding payment of taxes.

The court reasoned that taxes on income generated from business operations are generally considered business expenses, and if Congress intended subchapter V debtors to devote "gross" or "pre-tax" income to plan payments, it would have clearly required it in the statute. It noted that Nady's financial means is tied to Debtor's business and requiring him to pay taxes on income generated by Debtor without concomitant distributions would be "contrary to the intent and spirit of Subchapter V, which is to foster small business reorganizations." The structure of the plan supports the court's reasoning. Nady's continuing expertise and management is necessary to business operations. And he agreed to pledge additional capital as needed, allow preservation of avoidance actions until claims were paid in full, and to contribute net proceeds from real property owned by a non-debtor entity.

The record supports the bankruptcy court's finding that the payment of taxes on pass-through income was reasonably necessary to Debtor's business. The bankruptcy court could have limited the deduction to the corporate rate, as the Murray Creditors alternatively argued, or determined that no deduction was reasonable, but it did not. The court's factual determination is not clearly erroneous unless it is illogical, implausible, or not supported by facts or inferences in the record. And "[w]here there are two permissible views of the evidence, the fact finder's choice between them cannot be clearly erroneous." *Anderson v. City of Bessemer City*, 470 U.S. 564, 574 (1985).

D. The bankruptcy court did not err by finding the plan fair and equitable to the Murray Creditors.

We perceive no error in the court's finding that the plan is fair and equitable to the Murray Creditors, especially in light of the fact the plan provides for full payment of their claims with interest.

Section 1191(c)(2) sets a baseline requirement for a debtor to commit at least three years of projected disposable income. This is a "minimum requirement" for a cramdown plan to be fair and equitable, but a bankruptcy court can consider other relevant factors. *See Hamilton v. Curiel (In re Curiel)*, 651 B.R. 548, 561 & n.7 (9th Cir. BAP 2023).

Because the Murray Creditors will receive the full amount of their claims under the confirmed plan, the "minimum requirement" of projected disposable income is largely obviated.[8]

Full payment of claims, with interest, does not automatically render a plan fair and equitable to unsecured creditors. Considerations of unnecessary delay or risk of default may be relevant to the court's decision, but the Murray Creditors did not make any such arguments, and we do not consider them. The bankruptcy court did not clearly err by finding that the

[8] We note that §§ 1129(b)(2), 1225(b), and 1325(b) all provide for either full payment of unsecured claims or payment of projected disposable income, but § 1191(c)(2) requires only payment of projected disposable income or its value. However, we do not presume that Congress intended for subchapter V debtors to pay *more* than the full amount of allowed unsecured claims in cases where projected disposable income is greater than unsecured claims. Unsecured creditors are entitled to no more than full payment with interest.

tax expenditures were reasonably necessary to Debtor's business or that the plan is fair and equitable.

CONCLUSION

Based on the foregoing, we AFFIRM the bankruptcy court's order confirming Debtor's amended plan.