

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-2952

In re: Trism, Inc.,

Debtor

Trustees of the Trism Liquidating
Trust,

Appellant,

v.

Internal Revenue Service,

Appellee.

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Appeal from the United States
Bankruptcy Appellate Panel.

[UNPUBLISHED]

Submitted: April 13, 2005

Filed: April 21, 2005

Before LOKEN, Chief Judge, FAGG and BYE, Circuit Judges.

PER CURIAM.

Trism, Inc., an interstate trucking company, filed for bankruptcy under Chapter 11. The Internal Revenue Service (IRS) filed a claim for unpaid assessments on Trism's operation of heavy motor vehicles on the highways. See 26 U.S.C. § 4481. Trism objected to the claim's priority classification, then confirmed a liquidating plan

assigning authority to liquidate claim objections to the Trustees. After a hearing, the bankruptcy court decided the monetary obligation imposed by § 4481 was an excise tax on a transaction entitled to priority under 11 U.S.C. § 507(a)(8)(E) (granting priority to unsecured governmental claims for an “excise tax” on a “transaction”). The Bankruptcy Appellate Panel affirmed. In re Trism, 311 B.R. 509 (B.A.P. 8th Cir. 2004). The Trustees appeal arguing the bankruptcy court and BAP erroneously concluded the charges were a tax, rather than a user fee, and erroneously found a transaction had occurred. Having carefully reviewed the record, the briefs, and the applicable law, we conclude the bankruptcy court and BAP correctly decided the case. The obligation imposed by § 4481 is a tax, not a fee. Id. at 513-16. Further, the obligation is an excise tax on a transaction. Id. at 516-17. Because we have nothing to add to the BAP’s explanation, we summarily affirm. See 8th Cir. R. 47B.
