

107TH CONGRESS
1ST SESSION

H. R. 1514

To amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. SHAW (for himself, Mr. STARK, Mr. RAMSTAD, Mr. NEAL of Massachusetts, Ms. DUNN, Mr. COYNE, Mr. ENGLISH, Mr. MATSUI, Mr. LEWIS of Georgia, Mrs. JOHNSON of Connecticut, Mr. KLECZKA, Mr. HOUGHTON, Mr. LEVIN, Mr. HAYWORTH, Mr. BECERRA, Mr. WATKINS, Mr. McDERMOTT, Mr. BRADY of Texas, Mr. CARDIN, Mr. POMEROY, and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Structured Settlement
5 Protection Act”.

1 **SEC. 2. IMPOSITION OF EXCISE TAX ON PERSONS WHO AC-**
 2 **QUIRE STRUCTURED SETTLEMENT PAY-**
 3 **MENTS IN FACTORING TRANSACTIONS.**

4 (a) IN GENERAL.—Subtitle E of the Internal Rev-
 5 enue Code of 1986 is amended by adding at the end the
 6 following new chapter:

7 **“CHAPTER 55—STRUCTURED**
 8 **SETTLEMENT FACTORING TRANSACTIONS**

“Sec. 5891. Structured settlement factoring transactions.

9 **“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANS-**
 10 **ACTIONS.**

11 “(a) IMPOSITION OF TAX.—There is hereby imposed
 12 on any person who acquires directly or indirectly struc-
 13 tured settlement payment rights in a structured settle-
 14 ment factoring transaction a tax equal to 40 percent of
 15 the factoring discount as determined under subsection
 16 (c)(4) with respect to such factoring transaction.

17 “(b) EXCEPTION FOR CERTAIN APPROVED TRANS-
 18 ACTIONS.—

19 “(1) IN GENERAL.—The tax under subsection
 20 (a) shall not apply in the case of a structured settle-
 21 ment factoring transaction in which the transfer of
 22 structured settlement payment rights is approved in
 23 advance in a qualified order.

1 “(2) QUALIFIED ORDER.—For purposes of this
2 section, the term ‘qualified order’ means a final
3 order, judgment, or decree which—

4 “(A) finds that the transfer described in
5 paragraph (1)—

6 “(i) does not contravene any Federal
7 or State statute or the order of any court
8 or responsible administrative authority,
9 and

10 “(ii) is in the best interest of the
11 payee, taking into account the welfare and
12 support of the payee’s dependents, and

13 “(B) is issued—

14 “(i) under the authority of an applica-
15 ble State statute by an applicable State
16 court, or

17 “(ii) by the responsible administrative
18 authority (if any) which has exclusive ju-
19 risdiction over the underlying action or
20 proceeding which was resolved by means of
21 the structured settlement.

22 “(3) APPLICABLE STATE STATUTE.—For pur-
23 poses of this section, the term ‘applicable State stat-
24 ute’ means a statute providing for the entry of an

1 order, judgment, or decree described in paragraph
2 (2)(A) which is enacted by—

3 “(A) the State in which the payee of the
4 structured settlement is domiciled, or

5 “(B) if there is no statute described in
6 subparagraph (A), the State in which either the
7 party to the structured settlement (including an
8 assignee under a qualified assignment under
9 section 130) or the person issuing the funding
10 asset for the structured settlement is domiciled
11 or has its principal place of business.

12 “(4) APPLICABLE STATE COURT.—For pur-
13 poses of this section—

14 “(A) IN GENERAL.—The term ‘applicable
15 State court’ means, with respect to any applica-
16 ble State statute, a court of the State which en-
17 acted such statute.

18 “(B) SPECIAL RULE.—In the case of an
19 applicable State statute described in paragraph
20 (3)(B), such term also includes a court of the
21 State in which the payee of the structured set-
22 tlement is domiciled.

23 “(5) QUALIFIED ORDER DISPOSITIVE.—A quali-
24 fied order shall be treated as dispositive for purposes
25 of the exception under this subsection.

1 “(c) DEFINITIONS.—For purposes of this section—

2 “(1) STRUCTURED SETTLEMENT.—The term
3 ‘structured settlement’ means an arrangement—

4 “(A) which is established by—

5 “(i) suit or agreement for the periodic
6 payment of damages excludable from the
7 gross income of the recipient under section
8 104(a)(2), or

9 “(ii) agreement for the periodic pay-
10 ment of compensation under any workers’
11 compensation act excludable from the
12 gross income of the recipient under section
13 104(a)(1), and

14 “(B) under which the periodic payments
15 are—

16 “(i) of the character described in sub-
17 paragraphs (A) and (B) of section
18 130(c)(2), and

19 “(ii) payable by a person who is a
20 party to the suit or agreement or to the
21 workers’ compensation claim or by a per-
22 son who has assumed the liability for such
23 periodic payments under a qualified assign-
24 ment in accordance with section 130.

1 “(2) STRUCTURED SETTLEMENT PAYMENT
2 RIGHTS.—The term ‘structured settlement payment
3 rights’ means rights to receive payments under a
4 structured settlement.

5 “(3) STRUCTURED SETTLEMENT FACTORING
6 TRANSACTION.—

7 “(A) IN GENERAL.—The term ‘structured
8 settlement factoring transaction’ means a trans-
9 fer of structured settlement payment rights (in-
10 cluding portions of structured settlement pay-
11 ments) made for consideration by means of
12 sale, assignment, pledge, or other form of en-
13 cumbrance or alienation for consideration.

14 “(B) EXCEPTION.—Such term shall not
15 include—

16 “(i) the creation or perfection of a se-
17 curity interest in structured settlement
18 payment rights under a blanket security
19 agreement entered into with an insured de-
20 pository institution in the absence of any
21 action to redirect the structured settlement
22 payments to such institution (or agent or
23 successor thereof) or otherwise to enforce
24 such blanket security interest as against

1 the structured settlement payment rights,
2 or

3 “(ii) a subsequent transfer of struc-
4 tured settlement payment rights acquired
5 in a structured settlement factoring trans-
6 action.

7 “(4) FACTORING DISCOUNT.—The term ‘fac-
8 toring discount’ means an amount equal to the ex-
9 cess of—

10 “(A) the aggregate undiscounted amount
11 of structured settlement payments being ac-
12 quired in the structured settlement factoring
13 transaction, over

14 “(B) the total amount actually paid by the
15 acquirer to the person from whom such struc-
16 tured settlement payments are acquired.

17 “(5) RESPONSIBLE ADMINISTRATIVE AUTHOR-
18 ITY.—The term ‘responsible administrative author-
19 ity’ means the administrative authority which had
20 jurisdiction over the underlying action or proceeding
21 which was resolved by means of the structured set-
22 tlement.

23 “(6) STATE.—The term ‘State’ includes any
24 possession of the United States.

25 “(d) COORDINATION WITH OTHER PROVISIONS.—

1 “(1) IN GENERAL.—If the applicable require-
2 ments of sections 72, 104(a) (1) and (2), 130, and
3 461(h) were satisfied at the time the structured set-
4 tlement was entered into, the subsequent occurrence
5 of a structured settlement factoring transaction shall
6 not affect the application of the provisions of such
7 sections to the parties to the structured settlement
8 (including an assignee under a qualified assignment
9 under section 130) in any taxable year.

10 “(2) NO WITHHOLDING OF TAX.—The provi-
11 sions of section 3405 regarding withholding of tax
12 shall not apply to the person making the payments
13 in the event of a structured settlement factoring
14 transaction.”.

15 (b) CLERICAL AMENDMENT.—The table of chapters
16 for subtitle E of such Code is amended by adding at the
17 end the following new item:

 “Chapter 55. Structured settlement factoring transactions.”.

18 (c) EFFECTIVE DATES.—

19 (1) IN GENERAL.—The amendments made by
20 this section (other than the provisions of section
21 5891(d) of the Internal Revenue Code of 1986, as
22 added by this section) shall apply to structured set-
23 tlement factoring transactions (as defined in section
24 5891(e) of such Code as adopted by this section) en-

1 tered into on or after the 30th day following the
2 date of the enactment of this Act.

3 (2) CLARIFICATION OF EXISTING LAW.—Section
4 5891(d) of such Code (as so added) shall apply to
5 transactions entered into before, on, or after such
6 30th day.

7 (3) TRANSITION RULE.—In the case of a struc-
8 tured settlement factoring transaction entered into
9 during the period beginning on the 30th day fol-
10 lowing the date of the enactment of this Act and
11 ending on July 1, 2002, no tax shall be imposed
12 under section 5891(a) of such Code if—

13 (A) the structured settlement payee is
14 domiciled in a State (or possession of the
15 United States) which has not enacted a statute
16 providing that the structured settlement fac-
17 toring transaction is ineffective unless the
18 transaction has been approved by an order,
19 judgment, or decree of a court (or where appli-
20 cable, a responsible administrative authority)
21 which finds that such transaction—

22 (i) does not contravene any Federal or
23 State statute or the order of any court (or
24 responsible administrative authority), and

1 (ii) is in the best interest of the struc-
2 tured settlement payee or is appropriate in
3 light of a hardship faced by the payee, and
4 (B) the person acquiring the structured
5 settlement payment rights discloses to the
6 structured settlement payee in advance of the
7 structured settlement factoring transaction the
8 amounts and due dates of the payments to be
9 transferred, the aggregate amount to be trans-
10 ferred, the consideration to be received by the
11 structured settlement payee for the transferred
12 payments, the discounted present value of the
13 transferred payments including the present
14 value as determined in the manner described in
15 section 7520 of such Code, and the expenses re-
16 quired under the terms of the structured settle-
17 ment factoring transaction to be paid by the
18 structured settlement payee or deducted from
19 the proceeds of such transaction.

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