

105TH CONGRESS
2D SESSION

H. R. 4314

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

JULY 23, 1998

Mr. SHAW (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. RAMSTAD, Mrs. KENNELLY of Connecticut, Mr. HAYWORTH, Mr. LEVIN, Mr. WELLER, Mr. McDERMOTT, Mr. SKEEN, Mr. KLECZKA, Mr. PORTMAN, Mr. LEWIS of Georgia, Mrs. THURMAN, Mr. CARDIN, and Mr. NEAL of Massachusetts) 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as The
5 “Structured Settlement Protection Act”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

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

10 Subtitle E is amended by adding at the end thereof
 11 the following new chapter:

12 **“CHAPTER 55—STRUCTURED**
 13 **SETTLEMENT FACTORING TRANSACTIONS**

“Sec. 5891. Structured settlement factoring transactions.

14 **“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANS-**
 15 **ACTIONS.**

16 “(a) IMPOSITION OF TAX.—There is hereby imposed
 17 on any person who acquires directly or indirectly struc-
 18 tured settlement payment rights in a structured settle-
 19 ment factoring transaction a tax equal to 50 percent of
 20 the factoring discount as determined under subsection
 21 (c)(4) with respect to such factoring transaction.

22 “(b) EXCEPTION FOR COURT-APPROVED HARD-
 23 SHIP.—The tax under subsection (a) shall not apply in
 24 the case of a structured settlement factoring transaction

1 in which the transfer of structured settlement payment
2 rights is—

3 “(1) otherwise permissible under applicable law,
4 and

5 “(2) undertaken pursuant to the order of the
6 relevant court or administrative authority finding
7 that the extraordinary, unanticipated, and imminent
8 needs of the structured settlement recipient or his or
9 her spouse or dependents render such a transfer ap-
10 propriate.

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

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

14 “(A) established by—

15 “(i) suit or agreement for the periodic
16 payment of damages excludable from the
17 gross income of the recipient under section
18 104(a)(2), or

19 “(ii) agreement for the periodic pay-
20 ment of compensation under any workers’
21 compensation act that is excludable from
22 the gross income of the recipient under
23 section 104(a)(1), and

24 “(B) where the periodic payments are—

1 “(i) of the character described in sub-
2 paragraphs (A) and (B) of section
3 130(e)(2), and

4 “(ii) payable by a person who is a
5 party to the suit or agreement or to the
6 workers’ compensation claim or by a per-
7 son who has assumed the liability for such
8 periodic payments under a qualified assign-
9 ment in accordance with section 130.

10 “(2) STRUCTURED SETTLEMENT PAYMENT
11 RIGHTS.—The term ‘structured settlement payment
12 rights’ means rights to receive payments under a
13 structured settlement.

14 “(3) STRUCTURED SETTLEMENT FACTORING
15 TRANSACTION.—The term ‘structured settlement
16 factoring transaction’ means a transfer of structured
17 settlement payment rights (including portions of
18 structured settlement payments) made for consider-
19 ation by means of sale, assignment, pledge, or other
20 form of encumbrance or alienation for consideration.

21 “(4) FACTORING DISCOUNT.—The term ‘factor-
22 ing discount’ means amount equal to the excess of
23 (i) the aggregate undiscounted amount of structured
24 settlement payments being acquired in the struc-
25 tured settlement factoring transaction, over (ii) the

1 total amount actually paid by the acquirer to the
2 person from whom such structured settlement pay-
3 ments are acquired.

4 “(5) RELEVANT COURT OR ADMINISTRATIVE
5 AUTHORITY.—The term ‘relevant court or adminis-
6 trative authority’ means—

7 “(A) the court (or where applicable, the
8 administrative authority) which had jurisdiction
9 over the underlying action or proceeding that
10 was resolved by means of the structured settle-
11 ment, or

12 “(B) in the event that no action or pro-
13 ceeding was brought, a court (or where applica-
14 ble, the administrative authority) which—

15 “(i) would have had jurisdiction over
16 the claim that is the subject of the struc-
17 tured settlement, or

18 “(ii) has jurisdiction by reason of the
19 residence of the structured settlement re-
20 cipient.

21 “(d) COORDINATION WITH OTHER PROVISIONS.—

22 “(1) IN GENERAL.—In any case where the ap-
23 plicable requirements of sections 72, 130, and
24 461(h) were satisfied at the time the structured set-
25 tlement was entered into, the subsequent occurrence

1 of a structured settlement factoring transaction shall
2 not affect the application of the provisions of such
3 sections to the parties to the structured settlement
4 (including an assignee under a qualified assignment
5 under section 130) in any taxable year.

6 “(2) REGULATIONS.—The Secretary is author-
7 ized to prescribe such regulations as may be nec-
8 essary to clarify the treatment in the event of a
9 structured settlement factoring transaction of
10 amounts received by the structured settlement recip-
11 ient.”

12 **SEC. 3. TAX INFORMATION REPORTING OBLIGATIONS.**

13 Subpart B of part III, subchapter A of chapter 61
14 of subtitle F is amended by adding at the end thereof the
15 following new section:

16 **“SEC. 6050T. REPORTING REQUIREMENTS REGARDING**
17 **STRUCTURED SETTLEMENT FACTORING**
18 **TRANSACTIONS.**

19 “(a) IN GENERAL.—In the case of a transfer of
20 structured settlement payment rights in a structured set-
21 tlement factoring transaction—

22 “(1) described in section 5891(b) and of which
23 the person making the structured settlement pay-
24 ments has actual notice and knowledge, such person
25 shall make such return and furnish such written

1 statement to the acquirer of the structured settle-
2 ment payment rights as would be applicable under
3 the provisions of section 6041 (except as provided in
4 subsection (c) of this section), or

5 “(2) subject to tax under section 5891(a) and
6 of which the person making the structured settle-
7 ment payments has actual notice and knowledge,
8 such person shall make such return and furnish
9 such written statement to the acquirer of the struc-
10 tured settlement payment rights at such time, and
11 in such manner and form, as the Secretary shall by
12 regulations prescribe.

13 “(b) COORDINATION WITH OTHER PROVISIONS.—
14 The provisions of this section shall apply in lieu of any
15 other provisions of this part to establish the reporting obli-
16 gations of the person making the structured settlement
17 payments in the event of a structured settlement factoring
18 transaction. The provisions of section 3405 regarding
19 withholding shall not apply to the person making the
20 structured settlement payments in the event of a struc-
21 tured settlement factoring transaction.

22 “(c) DEFINITION.—For purposes of this section, the
23 term ‘acquirer of the structured settlement payment
24 rights’ shall include any person described in section
25 7701(a)(1).”

1 **SEC. 4. EFFECTIVE DATE.**

2 The amendments made by sections 1, 2, and 3 of this
3 Act shall be effective with respect to structured settlement
4 factoring transactions (as defined in section 5891(c)(3) of
5 the 1986 Code) occurring after the date of enactment of
6 this Act.

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