

105TH CONGRESS  
2D SESSION

# S. 2543

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.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 1998

Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. KERREY, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
 2 shall be considered to be made to a section or other provi-  
 3 sion of the Internal Revenue Code of 1986.

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

7 Subtitle E is amended by adding at the end thereof  
 8 the following new chapter:

9 **“CHAPTER 55—STRUCTURED**  
 10 **SETTLEMENT FACTORING TRANSACTIONS**

“Sec. 5891. Structured settlement factoring transactions.

11 **“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANS-**  
 12 **ACTIONS.**

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

19 “(b) EXCEPTION FOR COURT-APPROVED HARD-  
 20 SHIP.—The tax under subsection (a) shall not apply in  
 21 the case of a structured settlement factoring transaction  
 22 in which the transfer of structured settlement payment  
 23 rights is—

1           “(1) otherwise permissible under applicable law,  
2           and

3           “(2) undertaken pursuant to the order of the  
4           relevant court or administrative authority finding  
5           that the extraordinary, unanticipated, and imminent  
6           needs of the structured settlement recipient or the  
7           recipient’s spouse or dependents render such a  
8           transfer appropriate.

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

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

12                   “(A) established by—

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

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

22                   “(B) where the periodic payments are—

23                           “(i) of the character described in sub-  
24                           paragraphs (A) and (B) of section  
25                           130(c)(2), and

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

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

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

18          “(4) FACTORING DISCOUNT.—The term ‘factor-  
19          ing discount’ means an amount equal to the excess  
20          of—

21                 “(A) the aggregate undiscounted amount  
22                 of structured settlement payments being ac-  
23                 quired in the structured settlement factoring  
24                 transaction, over

1           “(B) the total amount actually paid by the  
2           acquirer to the person from whom such struc-  
3           tured settlement payments 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 of subchapter A of chapter 61  
 14 is amended by adding at the end thereof the following new  
 15 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 this Act shall be effective  
3 with respect to structured settlement factoring trans-  
4 actions (as defined in section 5891(c)(3) of the Internal  
5 Revenue Code of 1986, as added by this Act) occurring  
6 after the date of enactment of this Act.

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