

that "the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate."

This exception is intended to apply to the limited number of cases in which a genuinely "extraordinary, unanticipated, and imminent hardship" has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition as a threshold matter the transfer of structured settlement payment rights must be permissible under applicable law including State law. The Act is not intended by way of the hardship exception to the excise tax or otherwise to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, the State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. NEED TO PROTECT TAX TREATMENT OF ORIGINAL STRUCTURED SETTLEMENT

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. §§ 72, 130 and 461(h) has been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. §§ 72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, the section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed.

That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h)

of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments have been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income by the injured victim at the time of the structured settlement.

4. TAX INFORMATION REPORTING OBLIGATIONS WITH RESPECT TO A STRUCTURED SETTLEMENT FACTORING TRANSACTION

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (e.g., Form 1099-R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances, the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction.

Under the Act, the term "acquirer of the structured settlement payment rights" would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provisions of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. EFFECTIVE DATE

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

ELECTIONS IN LEBANON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HAMILTON. Mr. Speaker, I would like to call my colleagues' attention to correspondence Congressman GILMAN and I had with the Department of State regarding the importance of the elections scheduled in Lebanon in 1998.

First, Lebanon had largely free and fair local elections this past May and June. For the first time in 35 years, Lebanon conducted municipal elections, signaling the existence of a vibrant democracy at the local level.

The State Department commends the Lebanese in their efforts to implement a democratic and constitutional process. It is hoped that these changes will bring about reforms in the current system and expand the basic rights of the Lebanese.

Second, presidential elections in Lebanon are scheduled for this fall. We hope they will follow the trend of the municipal elections and be another encouraging sign of the Lebanese Government's commitment to the will of its citizens. The United States should continue to support steps in Lebanon to further meaningful representation and solidify the country's democratic institutions and practices.

The correspondence between the State Department and Congressman GILMAN and myself, including a letter of May 13, 1998 and a State Department reply of July 21, 1998, concerning the elections in Lebanon follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 21, 1998.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for your letter of May 13 to Secretary Albright concerning elections in Lebanon.

The municipal elections concluded on June 14. Thus far, Lebanese from all confessional groups have participated in great numbers—in some municipalities upwards of 75% of registered voters—reinforcing our belief that the Lebanese remain committed to the democratic ideals they share with us. That the polls have occurred with few disturbances speaks volumes about the greatly improved security situation in Lebanon and the control the government maintains in most areas of the country.

The Administration has been very active in encouraging free and fair elections in Lebanon. Since the Lebanese government first discussed holding these first municipal elections in 35 years, the Ambassador and Embassy in Beirut have encouraged the political leadership to demonstrate their commitment to democracy and hold the elections.

This is true for the presidential election as well, to take place in the fall. We have been forceful in asserting that the Lebanese should support democracy and constitutional processes. We would like to see a president who represents not only his confessional group but all Lebanese.

In President Clinton's National Day message to President Hrawi last November, he said: "In the past year, Lebanon has proceeded along the path towards reconstruction, reconciliation and support for democratic institutions and human rights. In the

coming year, I anticipate these trends will continue as your country holds presidential and municipal elections."

In the May 21 State Department press briefing, Spokesman James Rubin said in response to a question: "With respect to Lebanon's first municipal elections in 35 years, we welcome these elections. The United States and Lebanon share democratic traditions, and we have long urged the Lebanese to uphold democracy and support their own constitutional processes. We anticipate that these elections will be free and fair, and we urge the participation of all Lebanese in these elections. It's an opportunity for all Lebanese to make their voices heard in this first opportunity for two generations of Lebanese to determine their local leadership."

Like you, Mr. Hamilton, we remain committed to the goals of Lebanon's full independence, sovereignty and territorial integrity. We look forward to the day when Lebanon, at peace with her neighbors and free of all foreign forces, resumes her traditional place in the community of nations. We hope that the strong showing of support for democracy on the part of all Lebanese will help make that possible.

We hope this has been of help. Please let us know if there is any further information we can provide.

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.

COMMITTEE ON INTERNATIONAL
RELATIONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State,
Washington, DC.

DEAR MADAM SECRETARY: We write regarding United States policy toward Lebanon and important events that are meant to take place there.

First, we want to commend the Government of Lebanon for scheduling municipal elections, which we understand are to be held on four consecutive Sundays, beginning on May 24. Municipal elections have not been held in Lebanon for over thirty years. We hope that the United States will express publicly the great importance we attach to these elections and to their being held as scheduled.

Second, we write regarding the Presidential elections scheduled to be held in Lebanon this fall. As you recall, in 1995 the term of President Elia Hrawi, the current President, was extended for an additional three years. Syrian President Asad announced that extension on October 11, 1995 while on a trip to Cairo, after almost all of Lebanon's major politicians publicly opposed modifying the constitution to permit the President to serve more than one six-year term.

We have heard some reports that President Hrawi's term will again be extended an additional three years. We urge you to engage in quiet, advance diplomacy for the purpose of trying to preempt another subversion of Lebanon's constitution. We also believe that the United States should make clear publicly that we expect the Presidential elections to occur as scheduled.

We appreciate your consideration of these two issues regarding Lebanon.

With best regards,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.
LEE H. HAMILTON,
Ranking Democratic Member.