

cluded in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Section 2004(o)(1)(B)(ii) of Pub. L. 100-647 provided that: "The amendment made by clause (i) [amending this section] shall apply to transactions occurring on or after March 31, 1988."

EFFECTIVE DATE

Section 10228(d) of Pub. L. 100-203 provided that: "The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to consideration received after the date of the enactment of this Act [Dec. 22, 1987] in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition."

CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Sec.
5891. Structured settlement factoring transactions.

§ 5891. Structured settlement factoring transactions

(a) Imposition of tax

There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

(b) Exception for certain approved transactions

(1) In general

The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

(2) Qualified order

For purposes of this section, the term "qualified order" means a final order, judgment, or decree which—

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

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

(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

(B) is issued—

(i) under the authority of an applicable State statute by an applicable State court, or

(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

(3) Applicable State statute

For purposes of this section, the term "applicable State statute" means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

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

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

(4) Applicable State court

For purposes of this section—

(A) In general

The term "applicable State court" means, with respect to any applicable State statute, a court of the State which enacted such statute.

(B) Special rule

In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

(5) Qualified order dispositive

A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

(c) Definitions

For purposes of this section—

(1) Structured settlement

The term "structured settlement" means an arrangement—

(A) which is established by—

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

(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

(B) under which the periodic payments are—

(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

(2) Structured settlement payment rights

The term "structured settlement payment rights" means rights to receive payments under a structured settlement.

(3) Structured settlement factoring transaction

(A) In general

The term "structured settlement factoring transaction" means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.