

# Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations and Notice of Public Hearing

## Excise Tax Relating to Structured Settlement Factoring Transactions

REG-139768-02

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In T.D. 9042 on page 564 of this issue of the Bulletin, the IRS is issuing temporary regulations relating to the manner and method of reporting and paying the 40-percent excise tax imposed on any person who acquires structured settlement payment rights in a structured settlement factoring transaction. The text of those regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by May 20, 2003. Outlines of topics to be discussed at the public hearing scheduled for June 12, 2003, at 10:00 a.m. must be received by May 22, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG-139768-02), room 5226, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG-139768-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS internet site at [www.irs.gov/reg](http://www.irs.gov/reg). The public hearing will be held in room 6718 of the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Shareen S. Pflanz, 202-622-8488;

concerning submissions of comments, Sonya Cruse, 202-622-7180 (not toll-free numbers).

### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by April 21, 2003. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the **Internal Revenue Service**, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in §§157.6001-1T, 157.6011-1T, 157.6081-1T, and 157.6161-1T. This information is required by the IRS to verify that the excise tax imposed under section 5891 of the Internal Revenue Code is properly reported on Form 8876 and timely paid. This information will be used for that purpose. The collection of information is mandatory. The likely respondents and/or recordkeepers are individuals, business or other for-profit institutions, and

small businesses and organizations. The reporting burden is also reflected on Form 8876.

Estimated total annual reporting and/or recordkeeping burden: 2 hours.

Estimated average annual burden hours per respondent and/or recordkeeper: 30 minutes.

Estimated number of respondents and/or recordkeepers: 4.

Estimated annual frequency of responses (for reporting requirements only): On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### Background and Explanation of Provisions

Temporary regulations in T.D. 9042 in this issue of the Bulletin add a new part 157 to title 26 of the Code of Federal Regulations. The temporary regulations set forth the manner and method of paying the excise tax imposed under section 5891. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Further, it is hereby certified, pursuant to sections 603(a) and 605(b) of the Regulatory Flexibility Act, that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This

certification is based upon the expectation that the excise tax imposed by section 5891 of the Code will apply to few structured settlement factoring transactions. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact.

### Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 12, 2003 beginning at 10:00 a.m. in room 6718 of the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by May 22, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these regulations is Shareen Soltanzadeh Pflanz, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Depart-

ment participated in their development.

\* \* \* \* \*

### Proposed Amendments to the Regulations

Accordingly, title 26 of the Code of Federal Regulations is proposed to be amended as follows:

#### SUBCHAPTER D — MISCELLANEOUS EXCISE TAXES

Paragraph 1. A new part 157 is added to read as follows:

#### PART 157 — EXCISE TAX ON STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

##### Subpart A — Tax on Structured Settlement Factoring Transactions

Sec.

157.5891–1 Imposition of excise tax on structured settlement factoring transactions.

##### Subpart B — Procedure and Administration

Sec.

157.6001–1 Records, statements, and special returns.

157.6011–1 General requirement of return, statement, or list.

157.6061–1 Signing of returns and other documents.

157.6065–1 Verification of returns.

157.6071–1 Time for filing returns.

157.6081–1 Extension of time for filing the return.

157.6091–1 Place for filing returns.

157.6151–1 Time and place for paying of tax shown on returns.

157.6161–1 Extension of time for paying tax.

157.6165–1 Bonds where time to pay tax has been extended.

Authority: 26 U.S.C. 7805

Section 157.6001–1 also issued under 26 U.S.C. 6001.

Section 157.6011–1 also issued under 26 U.S.C. 6011.

Section 157.6061–1 also issued under 26 U.S.C. 6061.

Section 157.6091–1 also issued under 26 U.S.C. 6091.

Section 157.6161–1 also issued under 26 U.S.C. 6161.

##### Subpart A — Tax on Structured Settlement Factoring Transactions

*§157.5891–1 Imposition of excise tax on structured settlement factoring transactions.*

[The text of proposed §157.5891–1 is the same as the text of §157.5891–1T published elsewhere in this issue of the **Federal Register**].

##### Subpart B — Procedure and Administration

*§157.6001–1 Records, statements, and special returns.*

[The text of proposed §157.6001–1 is the same as the text of §157.6001–1T published elsewhere in this issue of the **Federal Register**].

*§157.6011–1 General requirement of return, statement, or list.*

[The text of proposed §157.6011–1 is the same as the text of §157.6011–1T published elsewhere in this issue of the **Federal Register**].

*§157.6061–1 Signing of returns and other documents.*

[The text of proposed §157.6061–1 is the same as the text of §157.6061–1T published elsewhere in this issue of the **Federal Register**].

*§157.6065–1 Verification of returns.*

[The text of proposed §157.6065–1 is the same as the text of §157.6065–1T published elsewhere in this issue of the **Federal Register**].

*§157.6071–1 Time for filing returns.*

[The text of proposed §157.6071–1 is the same as the text of §157.6071–1T published elsewhere in this issue of the **Federal Register**].

*§157.6081–1 Extension of time for filing the return.*

[The text of proposed §157.6081–1 is the same as the text of §157.6081–1T published elsewhere in this issue of the **Federal Register**].

*§157.6091–1 Place for filing returns.*

[The text of proposed §157.6091–1 is the same as the text of §157.6091–1T published elsewhere in this issue of the **Federal Register**].

*§157.6151–1 Time and place for paying of tax shown on returns.*

[The text of proposed §157.6151–1 is the same as the text of §157.6151–1T published elsewhere in this issue of the **Federal Register**].

*§157.6161–1 Extension of time for paying tax.*

[The text of proposed §157.6156–1 is the same as the text of §157.6161–1T published elsewhere in this issue of the **Federal Register**].

*§157.6165–1 Bonds where time to pay tax has been extended.*

[The text of proposed §157.6165–1 is the same as the text of §157.6165–1T published elsewhere in this issue of the **Federal Register**].

David A. Mader,  
*Assistant Deputy Commissioner  
of Internal Revenue.*