

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-1824. Responses to this collection of information are mandatory.

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.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

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

This document adds a new part 157, Excise Tax on Structured Settlement Factoring Transactions, to title 26 of the Code of Federal Regulations. The temporary regulations under part 157 provide guidance on the proper manner and method of reporting and paying the 40-percent excise tax imposed on any person who acquires, directly or indirectly, structured settlement payment rights in a structured settlement factoring transaction. The temporary regulations reflect the addition to the Internal Revenue Code (Code) of chapter 55 and section 5891 by section 115 of the Victims of Terrorism Tax Relief Act of 2001, Public Law 107-134 (115 Stat. 2427, 2436-2439).

Explanation of Provisions

Section 5891 of the Internal Revenue Code imposes an excise tax on any person who acquires, directly or indirectly, structured settlement payment rights in a structured settlement factoring transaction. The tax

is equal to 40 percent of the factoring discount with respect to the factoring transaction.

The temporary regulations set forth the manner and method of paying the excise tax imposed under section 5891 of the Code. Generally, the term *structured settlement factoring transaction* is defined as a transfer of structured settlement payment rights made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration. If a taxpayer is liable for the tax imposed by section 5891, the excise tax must be reported on Form 8876, Excise Tax on Structured Settlement Factoring Transactions. Generally, the temporary regulations require that the excise tax return be filed and the tax paid on or before the later of the ninetieth day following the day the taxpayer receives any structured settlement payment rights (including portions of structured settlement payments) or May 20, 2003. The temporary regulations provide rules relating to the Service's authority to extend the time for payment of any amount shown or required to be shown on the return.

The temporary regulations do not address the method of determining the proper amount of the excise tax imposed by section 5891 of the Code. Issues related to the determination of the amount of the excise tax may be addressed by future regulations.

The temporary regulations will be effective generally for structured settlement factoring transactions entered into on or after February 22, 2002.

Special Analyses

It has been determined that this Treasury decision 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. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the proposed rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is Shareen Soltanzadeh Pflanz, Attorney, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 157

Excise taxes, Structured settlement factoring transactions, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

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

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

1. 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.

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

Subpart B—Procedure and Administration

157.6001-1T Records, statements, and special returns.
 157.6011-1T General requirement of return, statement, or list.
 157.6061-1T Signing of returns and other documents.
 157.6065-1T Verification of returns.
 157.6071-1T Time for filing returns.
 157.6081-1T Extension of time for filing the return.
 157.6091-1T Place for filing returns.
 157.6151-1T Time and place for paying of tax shown on returns.
 157.6161-1T Extension of time for paying tax.
 157.6165-1T Bonds where time to pay tax has been extended.

Authority: 26 U.S.C. 7805.

Section 157.6001T also issued under 26 U.S.C. 6001.
 Section 157.6011T also issued under 26 U.S.C. 6011.
 Section 157.6061T also issued under 26 U.S.C. 6061.
 Section 157.6071T also issued under 26 U.S.C. 6071.
 Section 157.6091T also issued under 26 U.S.C. 6091.
 Section 157.6161T also issued under 26 U.S.C. 6161.