

Cox Financial Network LLC

*Bruce E. Cox, CPA
President/CEO*

March 11, 2011

Why Do I Need Court Approval To Transfer My Structured Settlement?

1. States usually require it.
2. Adverse tax consequences to Buyer if you don't have court approval.

Court approval is designed to protect you the consumer. It is not always in your best interest to sell or assign your structured settlement payments. The Courts will protect you by requiring full disclosure and determine you have a good reason to sell or assign your structured settlement payments. If you don't have a good reason, the Courts won't approve the transaction.

There are adverse tax consequences to the buyer if Court approval of the transfer is not obtained prior to the transfer. See the attached IRS form 8876. There is a 40% Excise tax on the difference between all future payments to be received and the amount paid for these payments. This excise tax makes it uneconomical for the buyer, and no one would likely be willing to buy these transactions.

Excise Tax on Structured Settlement Factoring Transactions

▶ See instructions below.

Date of receipt of structured settlement payment rights ▶

Please Type or Print	Name	Identifying number
	Number, street, and room or suite no. (If a P.O. box, see instructions.)	
	City or town, state, and ZIP code	

1	Total undiscounted amount of structured settlement payments being acquired	1	
2	Total amount paid for the above structured settlement payment rights	2	
3	Factoring discount. Subtract line 2 from line 1	3	
4	Tax. Multiply line 3 by 40% (.40)	4	
5	Less: Tax paid with Form 7004	5	
6	Tax due. Subtract line 5 from line 4. If zero or less, enter -0-	6	
7	Overpayment. If line 5 is greater than line 4, subtract line 4 from line 5	7	

Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		
	▶ _____ Signature	▶ _____ Date	▶ _____ Title (if any)
Paid Preparer's Use Only	Preparer's signature ▶ _____	Date _____	Check if self-employed <input type="checkbox"/>
	Firm's name (or yours if self-employed), address, and ZIP code ▶ _____	EIN _____	Preparer's SSN or PTIN _____ Phone no. () _____

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Use Form 8876 to report and pay the 40% excise tax imposed under section 5891 on the factoring discount of a structured settlement factoring transaction. File a separate Form 8876 for each date on which you received structured settlement payment rights in one or more structured settlement factoring transactions.

Definitions

Structured settlement. A structured settlement is an arrangement:

1. Established **(a)** by suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2) or **(b)** by 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

2. Under which the periodic payments are **(a)** of the character described in section 130(c)(2)(A) and (B) and **(b)** 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.

Structured settlement factoring transaction. A structured settlement factoring transaction is 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.

The following are not structured settlement factoring transactions.

1. The creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to that institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights.

2. A subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

Structured settlement payment rights. Structured settlement payment rights are rights to receive payments under a structured settlement.

Factoring discount. The factoring discount is the difference between the total undiscounted amount of structured settlement payments being acquired (line 1) and the total amount paid by the acquirer to the person(s) from whom the structured settlement payment rights are acquired (line 2).

Qualified order. A qualified order is a final order, judgment, or decree that:

- Finds that the transfer of structured settlement payment rights does not contravene any federal or state statute or the order of any court or responsible administrative authority, and is in the best interest of the payee, taking into account the welfare and support of the payee's dependents and

- Is issued under the authority of an applicable state statute by an applicable state court, or by the responsible administrative authority (if any) that has exclusive jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement.

Who Must File

Generally, you must file Form 8876 if you acquire directly or indirectly structured settlement payment rights in a structured settlement factoring transaction entered into after February 21, 2002. However, do not file Form 8876 if the transfer of structured settlement payment rights was approved in advance in a qualified order, as no excise tax is due.

When To File

File Form 8876 by the 90th day following the receipt of structured settlement payment rights in a structured settlement factoring transaction.

If you need more time, file Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns, by the due date of Form 8876. Form 7004 does not extend the time for payment of tax.

Where To File

File Form 8876 with the Internal Revenue Service Center, Cincinnati, OH 45999.

Rounding Off to Whole Dollars

You can round off cents to whole dollars on your return and schedules. If you do round to whole dollars, you must round all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.50 becomes \$3.

If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Amended Return

To amend a previously filed Form 8876, file a corrected Form 8876 and write "Amended" at the top of the form.

Interest and Penalties

Interest. Interest is charged on taxes not paid by the due date at a rate determined under section 6621.

Late filing of return. Generally, a penalty of 5% a month or part of a month, up to a maximum of 25%, is imposed on the net amount due if Form 8876 is not filed when due. This penalty will not be imposed if you have reasonable cause for not filing on time. If you do, attach an explanation.

Late payment of tax. Generally, the penalty for not paying tax when due is 1/2 of 1% of the unpaid amount, up to a maximum of 25%, for each month or part of a month the tax remains unpaid. The penalty is imposed on the net amount due. This penalty will not be imposed if you have reasonable cause for not paying on time.

Additional Information

For more details, see section 5891 and Regulations section 157.5891-1.

Specific Instructions

Name and address. Enter the name shown on your most recently filed federal income tax return. Include the suite, room, apartment, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the taxpayer has a P.O. box, show the box number instead of the street address.

Identifying number. If you are an individual, enter your social security number. Other filers should enter their employer identification number.

Line 5. Tax paid with Form 7004. If you filed Form 7004 for the payment rights received on the date shown on the top of this Form 8876, enter the amount of tax paid, if any, when you filed that extension application.

Line 6. Tax due. Make your check or money order payable to "United States Treasury." Write your name, address, identifying number, and "Form 8876" on the check or money order.

Line 7. Overpayment. The IRS will refund the amount on line 7 (to the extent you owe no other taxes).

Signature. For information on who must sign Form 8876, see the instructions for the signature section of your federal income tax return.

Privacy Act and Paperwork Reduction Act Notice. These Acts require that when we ask you for information we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law.

Our legal right to ask for information is sections 6001, 6011, and 6012(a) and their regulations, which require you to file a return or statement with us for any tax for which you are liable. Your response is mandatory under these sections. Section 6109 requires you to provide your identifying number. This is so we know who you are, and can process your return and other papers. You must fill in all parts of the tax form that apply to you.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. We ask for the information on this form to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax. If you do not file a return, do not provide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

Please keep this notice with your records. It may help you if we ask you for other information. If you have any questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** 3 hr., 6 min.
- Learning about the law or the form** 1 hr., 12 min.
- Preparing and sending the form to the IRS** 1 hr., 17 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see *Where To File* on this page.