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October 27, 2003

Pamela F. Olson
Assistant Secretary (Tax Policy)
Department of Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

B. John Williams
Chief Counsel, Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Section 130 Qualified Assignments

Dear Assistant Secretary Olson and Chief Counsel Williams:

You are in receipt of a letter dated June 19, 2003, from Skadden, Arps, Slate, Meagher & Flom, LLP (“Skadden Arps”), signed by Fred Goldberg, Kenneth Gideon and Jody Brewster of that law firm, requesting that the Internal Revenue Service (“IRS”) and Treasury Department (“Treasury”) publish guidance under section 130 of the Internal Revenue Code (the “Code”). Specifically, this letter requested guidance clarifying that the assignment of a liability to make periodic payments does not fail to be a “qualified assignment” for purposes of section 130 solely because the settlement proceeds are held temporarily in a qualified settlement fund, as defined in Treas. Reg. § 1.468B-1(c), before the periodic payments liability is assigned. That letter recommended an amendment to Rev. Proc. 93-34 and provided suggested text which would modify and supercede Rev. Proc. 93-34 to make clear that a qualified settlement fund (“QSF”) may make a qualified assignment under section 130 in a case involving a single claimant.

It is duly noted that Mr. Goldberg served as chief counsel of the IRS from 1984 to 1986, commissioner of the IRS from 1989 to 1992, and assistant secretary of the Treasury for tax policy during 1992. Mr. Gideon served as chief counsel of the IRS from 1981 through 1983 and assistant secretary of the Treasury for tax policy from 1989 to 1992. They were both in key policy-making positions at the time Treasury Regulations § 1.468B to accompany Code § 468B were being formulated and Rev. Proc. 93-34 was also being developed. Ms. Brewster’s name appears as the author of several key IRS rulings affecting structured settlements. I trust that you will consider their unique perspective to be insightful.

I fully agree with the discussion and conclusions of Skadden Arps, which is eminently qualified in this matter and whose expertise is without question, and I too urge Treasury and the IRS to issue the guidance requested. Additionally, I make a compelling argument not made by Skadden Arps, that it is irrefutably the intent of Congress that the judicial doctrine of economic benefit does not apply to the facts of a designated settlement fund (DSF) or QSF created for the benefit of a single claimant. I will also demonstrate why it is timely, appropriate and necessary that Treasury and the IRS issue guidance at this time.

I am an attorney speaking on my own behalf and disclaiming that my views necessarily represent those of any organization to which I belong, including but not necessarily limited to the Society of Settlement Planners (SSP), the National Structured Settlements Trade Association (NSSTA), the American Bar Association (ABA), the Association of Trial Lawyers of America (ATLA), the Oklahoma Bar Association (OBA) and the Oklahoma Trial Lawyers Association (OTLA). I also disclaim that my views necessarily represent those of my business associates in Structured Settlement Services LLC; the general agent under whom I am appointed as an agent of several life insurance companies, Stan K. Harlan and Summit Settlement Services; and any life insurance company or assignment company for which I am an agent; or anyone else.

As my affiliations reveal, I am also a structured settlement “broker,” first entering this business in early 1986. I consider myself to be a student of the structured settlement industry and am one of its most vocal

critics, having published several articles pertinent to this topic. I have studied the tax issues pertinent to structured settlements for many years. Most noteworthy is the following law review article:

“Structured Settlements: The Ongoing Evolution from a Liability Insurer’s Ploy to an Injury Victim’s Boon,” 36 Tulsa L.J. 865 (2001)
<http://www.structuredsettlements.org/36TulsaLJ865.pdf>

Additional articles pertinent to this topic first appeared in the newsletter, *Structured Settlements*, AMROB Publishing Company, which I edit and publish ancillary to the Structured Settlement Services LLC brokerage operation. Personalized editions of each issue of the newsletter are produced for other brokers for distribution to their client and prospect lists. The combined press run of each issue approaches 15,000 and the distribution is nationally. Some articles from the newsletter have been reprinted primarily in various statewide trial lawyer association publications. The additional articles identified as pertinent to this matter are accessible on the Internet at the URL addresses indicated:

“Qualified Settlement Funds for Single Claimants”
http://www.structuredsettlements.org/artman/publish/printer_49.shtml

“Why Use a Qualified Settlement Fund?”
http://www.structuredsettlements.org/artman/publish/printer_44.shtml

“How a Qualified Settlement Fund Works”
http://www.structuredsettlements.org/artman/publish/printer_43.shtml

“Qualified Assignments from Single-Claimant QSFs Are Supported by Tax Code and Regs”
http://www.structuredsettlements.org/artman/publish/printer_62.shtml

“Qualified Settlement Funds Being Used for Single Claimant Injuries”
http://www.structuredsettlements.org/artman/publish/printer_45.shtml

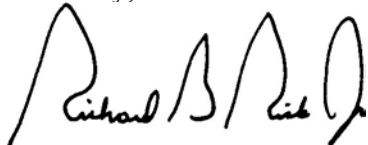
“Comment: History of Abuse Tarnishes Structure Image”
http://www.structuredsettlements.org/artman/publish/printer_80.shtml

These articles are enclosed and respectfully submitted for the record as background information. Indications have been provided to me that at least some of these articles are familiar to some of the additional addressees of this letter.

Attached for your convenience is a memorandum that provides additional comments to the Skadden Arps submission of June 19, 2003, titled “Tax Consequences of a Single-Claimant Qualified Settlement Fund Used to Facilitate a Qualified Assignment under Section 130 of the Code.”

I would appreciate the opportunity to discuss this issue with you and others from Treasury and the IRS. If you have any questions or would like additional information, please call the undersigned at (918) 494-6886.

Sincerely,



Richard B. Risk

cc: Eric Solomon
Helen Hubbard
Gary B. Wilcox
Robert M. Brown
Thomas Luxner
Mike Montemurro
Terrance McWhorter
Emily A. Parker