

§2243. Transfer of structured settlement payment rights

1. Application. This section applies to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the effective date of this section. This section may not be construed to imply that any transfer under a transfer agreement reached prior to the effective date of this section is effective.

[PL 1999, c. 268, §2 (NEW).]

2. Requirements for transfer. A direct or indirect transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or a responsible administrative authority, based on express findings by that court or responsible administrative authority that:

A. The transfer complies with the requirements of this chapter and does not contravene other applicable law; [PL 1999, c. 268, §2 (NEW).]

B. Not less than 10 days prior to the date on which the payee first incurred any obligation with respect to the transfer, the transferee provided to the payee a disclosure statement in bold type, no smaller than 14 points, setting forth:

- (1) The amounts and due dates of the structured settlement payments to be transferred;
- (2) The aggregate amount of those payments;
- (3) The discounted present value of those payments together with the discount rate used in determining that discounted present value;
- (4) The gross amount payable to the payee in exchange for the payments;
- (5) An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees and other commissions, fees, costs, expenses and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;
- (6) The net amount payable to the payee after deduction of all commissions, fees, costs, expenses and charges described in subparagraph (5);
- (7) The quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments; and
- (8) The amount of any penalty and the aggregate amount of any liquidated damages, inclusive of penalties, payable by the payee in the event of any breach of the transfer agreement by the payee; [PL 1999, c. 268, §2 (NEW).]

C. The payee has established that the transfer is necessary to enable the payee, the payee's dependents or both to avoid imminent financial hardship, and the transfer is not expected to subject the payee, the payee's dependents or both to undue financial hardship in the future, except that if a federal hardship standard was in effect at the time the payee and the transferee entered into the transfer agreement, in lieu of the foregoing finding the court or responsible administrative authority must make an express finding that the transfer qualifies under that federal hardship standard; [PL 1999, c. 268, §2 (NEW).]

D. The payee has received independent professional advice regarding the legal, tax and financial implications of the transfer; [PL 1999, c. 268, §2 (NEW).]

E. If the transfer would contravene the terms of the structured settlement:

- (1) The transfer has been expressly approved in writing by:

(a) Each interested party; and

(b) Any court or government authority, other than the court or responsible administrative authority from which authorization of the transfer is sought under this chapter, that previously approved the structured settlement; and

(2) Signed originals of all approvals required under subparagraph (1) have been filed with the court or responsible administrative authority from which authorization of the transfer is sought under this chapter and originals or copies have been furnished to all interested parties; [PL 1999, c. 268, §2 (NEW).]

F. If the transfer would contravene the terms of the structured settlement, the transfer agreement does not have adverse tax consequences to the structured settlement obligor or annuity issuer. The structured settlement obligor or annuity issuer must demonstrate to the court or responsible administrative authority that the transfer agreement, if approved, will have adverse tax consequences; and [PL 1999, c. 268, §2 (NEW).]

G. The transferee has given written notice of the transferee's name, address and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of that notice with the court or responsible administrative authority. [PL 1999, c. 268, §2 (NEW).]

[PL 1999, c. 268, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 268, §2 (NEW).

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