National Structured Settlements Trade Association

<u>Structured Settlements Enable Seriously Injured People and Their Families to Live with Economic Security, Dignity, Independence, and Freedom from Reliance on Government</u>.

Structured settlements constitute a private sector funding alternative to taxpayer-financed assistance programs to meet the ongoing, long-term medical and basic living needs of seriously-injured persons and their families, providing long-term financial security through an assured stream of payments tailored to the injured person's needs throughout his or her lifetime. Thus, structured settlements enable seriously-injured people to live with dignity and financial independence, free from reliance on government programs and interference

<u>Structured settlements are in wide use today to resolve physical injury claims</u>

Structured settlements have been widely used in the tort area for more than three decades, and in worker's compensation for over twenty years. In a structured settlement, a voluntary agreement is reached between the parties under which the injured person receives damages in the form of a stream of periodic payments tailored to his or her future medical expenses and basic living needs from a well-capitalized, financially-experienced institution.

<u>Structured settlements enable injured persons to live with economic security</u>

Structure settlements provide a private sector funding alternative to the traditional taxpayer-financed assistance programs in order to meet the ongoing, long-term medical and basic living needs of seriously-injured persons and their families. This is done through an assured stream of payments tailored to their needs.

It enables persons who are injured to live with dignity and financial independence, free of reliance on government programs.

Structured settlements have strong support from the plaintiff's bar, defense bar, judges, and mediators.

<u>Structured settlements provide crucial financial protection to injured persons and their families</u>

Historically, a lump sum recovery was the standard option in personal injury cases. The injured person then faced the daunting challenge of managing that lump sum in order to cover substantial ongoing medical and living expenses for her or her lifetime. All too often, this lump sum swiftly eroded away. When the recovery money was used, the injured person was still left in the same situation as before- disabled and unable to work. In such cases, responsibility to care for this disabled person fell to Medicaid and public assistance systems.

Structured settlements provide a better approach. A voluntary agreement is reached between the parties generally through their counsel under which the injured person receives damages in the form of a stream of periodic payments tailored to address the future medical expenses and basic living needs of the injured person and his or her family from a well-capitalized, financially-secure institution. This process may be overseen by a court, particularly in minor's cases.

Often, this payment stream is dispersed throughout the individual's lifetime to ensure future medical expenses and basic living needs will be met, and that the injured person will not outlive his or her compensation. In the case of a disabling injury or wrongful death of a bread-winner, the payment stream can be tailored to support the family. For example, the family may have young children to care for at home, with the other spouse unable to return to work or to earn enough to support the family. The payment stream can be tailored to meet the family's specific needs over time, including providing lump sum payments in the future when the children reach college to help fund the cost of their education.

Structured settlements are voluntary arrangements. The injured person has a choice whether or not to take a structured settlement. Generally, about one-third of the injured persons who are offered a structured settlement take it. The other two-thirds take the cash lump sum.

Structured settlements have the strong support of the plaintiff's bar, the defense bar, judges, and mediators.

The Federal government also makes significant use of structured settlements to resolve physical injury claims under the Vaccine Injury Compensation Trust Fund established by section 9510 of the Internal Revenue Code and under the Federal Tort Claims Act. NSSTA estimates that over 50 percent of all Vaccine Injury Compensation Fund claims for the young children suffering physical injuries from vaccines are resolved with structured settlements.

In summary, a structured settlement provides these key policy benefits:

- Protection against premature dissipation by injured persons who usually lack the experience to manage the financial responsibilities and risks of investing a large lump sum to cover a substantial, ongoing stream of medical and basic living expenses for a lengthy period.

- Payout tailored to the day-to-day living expenses and the ongoing medical and financial needs of the injured person and his or her family.

- Payment stream is often for the remainder of the injured person's lifetime, so that the injured person does not outlive his or her compensation, and can be extended to the life of a spouse and to support children in the family

- Avoids shift of responsibility for care to taxpayer-financed public assistance programs.

<u>Congress has adopted special tax rules to encourage and govern structured settlements</u>

For these reasons Congress adopted, with bipartisan support, a series of special tax rules to encourage and govern the use of structured settlements to provide long-term financial security to injured victims and their families. These structured settlement tax rules have worked effectively for the past 35 years.

Under these rules, the full amount of the periodic payments constitutes tax-free damages to the injured person, and the liability to make the periodic payments to the injured person may be assigned by the settling defendant to a structured settlement assignment company that will use a financially-secure annuity to fund the damage payments (I.R.C. §§ 130, 104, 72).

In the Taxpayer Relief Act of 1997, in a provision sponsored by Rep. Clay Shaw (R-Fla.) and Pete Stark (D-Ca.), and co-sponsored by a bipartisan majority of the House Ways and Means Committee and by Sen. Max Baucus (D-Mont.) and Chuck Grassley (R-Iowa) in the Senate, Congress extended the structured settlement tax rules to worker's compensation to cover physical injuries suffered in the workplace.

The Victims of Terrorism Tax Relief Act of 2001, enacted to compensate the victims of the September 11 attack, included a measure championed by Reps. Shaw and Stark along with a broad bipartisan majority of the Ways and Means Committee and with the support of Sens. Baucus and Grassley in the Senate to protect structured settlement recipients from factoring companies which seek to purchase part or all of an injured person's future payments in exchange for a sharply discounted lump sum now. These factoring transactions can jeopardize the long-term financial security of injured persons and their families.

In the "Tax Cuts and Jobs Act of 2017," the House Ways and Means Committee and Senate Finance Committee acted to fully protect the structured settlement tax code provisions—Section 104(a)(2) and Section 130.

The Joint Committee on Taxation staff has estimated that the structured settlement tax rules in Code sections 130 and 72 have a total five-year revenue loss that is "below the *de minimis* amount ($50 million)" for the fiscal years 2019 through 2023 (Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2019-2023* (JCX-55-19), December 18, 2019. Once again, structured settlements are listed as a de minimus tax expenditure. The entry is on page 16 of the report:

Quantitatively de minimis Tax Expenditures
The following tax provisions are viewed as tax expenditures by the Joint Committee staff but are not listed in Table 1 because the estimated revenue losses for fiscal years 2017 through

2020 are below the de minimis amount ($50 million): Commerce and housing--Exclusion of investment income from structured settlement arrangements (secs. 72(u)(3)(C) and 130)

National Structured Settlements Trade Association:

The National Structured Settlements Trade Association (NSSTA) is an organization composed of more than 1,300 members throughout the country. These members specialize in negotiating and funding structured settlements of tort and worker's compensation claims involving persons with serious, long-term physical injuries. Structured settlements provide the injured person with the financial security of an assured payout over time. Founded in 1986, NSSTA's mission is to advance the use of structured settlements as a means of resolving physical injury claims.

NSSTA's members include: structured settlement brokers who work with plaintiff counsel and defense counsel to develop, negotiate, and implement the structured settlement for the injured person; life insurance companies which fund the structured settlements through annuities; property and casualty companies and self-insured entities which enter into the structured settlement with the injured person to resolve his or her physical injury claim; and various attorneys, economists, and experts active in the structured settlements field.