



Hon. Ricardo Lara
Insurance Commissioner
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814



Public Comment
From: Matthew Powers
Agenda Item: N. Public Comment on Matters Not on the Agenda
Meeting Date: 04/27/21

April 7, 2021

Re: Opposition to CDI Structured Settlements Gross Premiums Tax Assessment

Dear Commissioner Lara,

As stakeholders in structured settlements we write to express our respectful opposition to recent California Department of Insurance (CDI) actions to apply a new interpretation of the Gross Premiums tax to structured settlements involving California residents. Structured settlements are a critically important tool to help ensure that injured plaintiffs can receive a lifetime stream of income once they have won a judgment, and recent actions by the CDI threaten to diminish that critically needed income.

During a recent CDI audit of American General Life Insurance Company (AGL) a recommendation was made to apply premium tax of 2.35% to all annuity transactions that are part of a structured settlement case involving a California Resident. Long established tax policy states that taxes are levied and collected based on the residence or principal place of business of the entity purchasing the structured settlement annuity and where the issuance of the contract takes place, not the state of residence of the payee. None of the AGL structured settlement annuities were purchased in California. No other state has collected premium tax on structured settlements involving a qualified assignment from any life insurance company offering this product based upon the residency of the beneficiary.

Most importantly, this change in the long-standing taxing practice heretofore applied in California and other states threatens to meaningfully diminish benefits to injured plaintiffs. For those Californian residents receiving payments from structured settlements, consistency of revenue is often critically important to pay for living expenses, medical expenses, medication and care. This proposed interpretation by CDI will reduce the benefits injured plaintiffs are

receiving and could lead to a very real increase in financial hardships and this position seems counter to policy objectives that the State of California should be supporting.

Furthermore, we believe that there is no legal authority to impose this tax and is contrary to well-established authority for analogous situations. For qualified assignment cases, the California resident or residents receiving periodic payments did not purchase the product and are therefore not policyholders. Since the purchase transaction did not occur in California and the owner of the annuity is not a California resident, this transaction does not meet the definition of gross premium as defined under California Constitution, Art. XIII, Sec. 28 (b)-(c).

The undersigned organizations strongly oppose putting new premium taxes on qualified assignment structured settlements because it is contrary to well established tax rules, may be unconstitutional, has no clear benefit to settlement recipients, and it will decrease the benefits that injured Californians receive for an injury following a legal settlement. We respectfully request and urge CDI to consider withdrawing their case before the California Board of Equalization.

Thank you for your consideration.

Sincerely,



Matthew Powers
Vice President, Life, Disability and LTC Policy
Association of California Life and Health Insurance Companies

On behalf of the below listed organizations:

American Council of Life Insurers
Consumer Attorneys of California
Disability Rights California
National Structured Settlements Trade Association

Cc: Members of the Board of Equalization
Hon. Tom Daly
Hon. Susan Rubio
Ms. Catalina Hayes-Bautista
Mr. Michael Martinez
Mr. Ken Schnoll