



September 26, 2022

The Honorable Mike Mcguire
California State Senate
1021 O Street, Suite 8620
Sacramento, CA 95814

Re: Senate Committee on Governance and Finance's omnibus bill, SB 1496

Dear Senator McGuire,

As stakeholders in structured settlements, we write to express strong interest in including in the Senate Committee on Governance and Finance omnibus bill, SB 1496, language to address interpretation issues with the Gross Premiums tax to qualified 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 lack of clarity regarding the tax-exempt status of qualified settlements is in urgent need of attention.

The amendments we hope to see included in SB 1496 would ensure qualified structured settlement annuities paid to injured consumers are kept whole. Structured settlement annuities are purchased to fund periodic payments to injury victims to help pay for their long-term medical care and living expenses, and other necessary care. In many cases these payments last the entire lifetime of the beneficiary.

However, ambiguity in the California Insurance Code leaves open the possibility that some structured settlement annuities could be inadvertently subject to California's gross premium tax under Revenue and Taxation Code section 12221, when these types of annuities are otherwise intended to be exempt from federal income tax under federal law. In order to ensure these important financial products continue to provide full guaranteed tax-free periodic payments to injury victims, this proposal would clarify that qualified structured settlement annuities are not subject to state premium taxes.

The proposed language would read as follows:

Proposed Amendment to CA. Rev. & Tax Code § 12221:

In the case of an insurer not transacting title insurance in this State, the basis of the tax is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State. "Gross premiums" do not include premiums received for reinsurance, for ocean marine insurance. Gross premiums of reciprocal or interinsurance exchanges shall be determined as provided in Section 1530 of the Insurance Code. For purposes of the tax imposed by this chapter, "gross premiums" shall be deemed to include home protection contract fees defined in Section 12740 of the Insurance Code.

Notwithstanding the rate specified by Section 12202, for annuity policies or contracts that constitute qualified funding assets pursuant to Section 130(d) of Title 26 of the United States Code, the gross premiums tax rate for premiums received for those annuity policies and contracts shall be 0 percent for premiums received on or after January 1, 2023.

The undersigned organizations strongly encourage you and your committee members to consider amending SB 1496 to include this simple but important fix to the Revenue and Taxation Code.

Thank you very much for your consideration.

Sincerely,

American Council of Life Insurers
Association of California Life and Health Insurance Companies
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
Mr. Ken Schnoll
Mr. Michael Martinez