

PRIOR PROVISIONS

A prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to penalties, was omitted in the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising subsecs. (a), (b), (d), (g), (j), and (k) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 90-618, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5854.
(b)	5851.
(d)	5854.
(g)	5852.
(j)	5855.
(k)	5853.

The prior sections 5851 to 5853, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 728.

The prior sections 5854 and 5855, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, are set out in 72 Stat. 1428.

A prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to the forfeiture and disposal of any firearm involved in any violation of the provisions of this chapter or any regulation promulgated thereunder, was omitted in the general revision of this chapter by Pub. L. 90-618. The provisions of prior section 5862 of this title are covered by section 5872 of this title.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Subchapter D—Penalties and Forfeitures

Sec.	
5871.	Penalties.
5872.	Forfeitures.

PRIOR PROVISIONS

A prior subchapter D, consisted of sections 5861 and 5862, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5871. Penalties

Any person who violates or fails to comply with any provisions of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 98-473, title II, §227, Oct. 12, 1984, 98 Stat. 2030.)

PRIOR PROVISIONS

A prior section 5871, act Aug. 16, 1954, ch. 736, 68A Stat. 729, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1984—Pub. L. 98-473 struck out “, and shall become eligible for parole as the Board of Parole shall determine” after “or both”.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 235(a)(1)(B)(ii)(IV) of Pub. L. 98-473 provided that the amendment made by that section is effective Oct. 12, 1984.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5872. Forfeitures

(a) Laws applicable

Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

(b) Disposal

In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at a public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1235; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

CHAPTER 54—GREENMAIL

Sec.	
5881.	Greenmail.

§ 5881. Greenmail

(a) Imposition of tax

There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain or other income of such person by reason of such receipt.

(b) Greenmail

For purposes of this section, the term “greenmail” means any consideration transferred by a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation from any shareholder if—

- (1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,

(2) at some time during the 2-year period ending on the date of such acquisition—

- (A) such shareholder,
- (B) any person acting in concert with such shareholder, or
- (C) any person who is related to such shareholder or person described in subparagraph (B),

made or threatened to make a public tender offer for stock of such corporation, and

(3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

(c) Other definitions

For purposes of this section—

(1) Public tender offer

The term “public tender offer” means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

(2) Related person

A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

(d) Tax applies whether or not amount recognized

The tax imposed by this section shall apply whether or not the gain or other income referred to in subsection (a) is recognized.

(e) Administrative provisions

For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 100–203, title X, §10228(a), Dec. 22, 1987, 101 Stat. 1330–417; amended Pub. L. 100–647, title II, §2004(o)(1)(A), (B)(i), (C), (2), Nov. 10, 1988, 102 Stat. 3608.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–647, §2004(o)(1)(A), substituted “gain or other income of such person by reason of such receipt” for “gain realized by such person on such receipt”.

Subsec. (b). Pub. L. 100–647, §2004(o)(1)(B)(i), substituted “a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation” for “a corporation to directly or indirectly acquire its stock”.

Subsec. (d). Pub. L. 100–647, §2004(o)(1)(C), substituted “amount” for “gain” in heading and inserted “or other income” after “the gain” in text.

Subsec. (e). Pub. L. 100–647, §2004(o)(2), added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2004(o)(1)(A), (C), (2) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

Section 2004(o)(1)(B)(ii) of Pub. L. 100–647 provided that: “The amendment made by clause (i) [amending

this section] shall apply to transactions occurring on or after March 31, 1988.”

EFFECTIVE DATE

Section 10228(d) of Pub. L. 100–203 provided that: “The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to consideration received after the date of the enactment of this Act [Dec. 22, 1987] in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.”

CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Sec.

5891. Structured settlement factoring transactions.

§ 5891. Structured settlement factoring transactions

(a) Imposition of tax

There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

(b) Exception for certain approved transactions

(1) In general

The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

(2) Qualified order

For purposes of this section, the term “qualified order” means a final order, judgment, or decree which—

(A) finds that the transfer described in paragraph (1)—

(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

(ii) is in the best interest of the payee, taking into account the welfare and support of the payee’s dependents, and

(B) is issued—

(i) under the authority of an applicable State statute by an applicable State court, or

(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

(3) Applicable State statute

For purposes of this section, the term “applicable State statute” means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

(A) the State in which the payee of the structured settlement is domiciled, or

(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment