



The End Double Taxation of Successful Consumer Claims Act

The End Double Taxation of Successful Consumer Claims Act changes tax law so that plaintiffs that win consumer fraud cases are not liable for taxes on funds awarded to their attorney. This legislation defines explicit consumer protection statutes, which include credit reporting, fair lending, debt collection, any other provision of federal law prohibiting deceptive trade or credit practices, and any provision of federal, state, or local law or common law claims that enforce consumer protection or regulate any aspect of consumer transactions.

When a consumer wins a legal claim, including those brought under what are called “fee-shifting statutes”, the judgment could include monetary damages and attorneys’ fees. Usually, the consumer receives the damages while their attorney receives the fees. Under the TCJA of 2017, the consumer will owe taxes on both the amounts paid to them *and the amounts paid to their attorney with no way to deduct the fees!*¹ Attorneys are also required to pay taxes on the legal fees paid by the corporate defendant, resulting in double taxation.

Fee-shifting statutes require defendants (firms or corporations) to pay for the plaintiffs’ (consumers’) attorneys’ fees if the plaintiff prevails in a given lawsuit. Because consumer cases are time-consuming to litigate but typically involve small amounts of damages, attorneys’ fees often make up a large proportion of whatever the total award is in a consumer case. As a result, if the consumer is taxed on the total amount (damages awarded + attorneys’ fees awarded), taxes on the fees alone could eat up a big portion of the money awarded to the plaintiff. In some cases, taxes on attorneys’ fees will exceed the consumer’s compensation from winning a judgment in their favor.

Requiring consumers to pay taxes on money they did not receive will create financial hardship for the consumers and result in fewer consumers seeking redress for illegal kickbacks, overcharges, abuse, or other harmful and fraudulent acts by corporations. The very purpose of fee-shifting statutes is to facilitate access to justice by allowing people who would otherwise be unable to afford to bring consumer rights cases to do so.

The bill is supported by the National Association for Consumer Advocates, Consumer Federation of America, American Association for Justice, Americans for Financial Reform, National Consumer Law Center (on behalf of its low-income clients), Consumer Action, Public Citizen, Public Justice, US PIRG, National Association for Latino Community Asset Builders (NALCAB), National Consumers League and Consumers for Auto Reliability and Safety, and the Public Investors Advocate Bar Association.

¹ Wood, Robert W. “New Tax on Lawsuit Settlements – Legal Fees Can’t Be Deducted.” Forbes. March 12, 2018. Available at: <https://www.forbes.com/sites/robertwood/2018/03/12/new-tax-on-lawsuit-settlements-legal-fees-cant-be-deducted/#7b2c4d670d71>