Learn More About Structured Settlements

For over 25 years, the federal government has recognized and encouraged the use of structured settlements in personal injury cases. Structured settlements have also attracted strong support from plaintiff attorneys, state attorneys general, legislators, judges, and disability advocates.

If you would like additional information about structured settlements, White House Financial & Settlement Consulting at (888) 869-4837. Or call the National Structured Settlements Trade Association at (202) 466-2714.

What is a structured settlement?

Structured settlements are an innovative method of compensating injury victims. Encouraged by the U.S. Congress since 1982, a structured settlement is a voluntary agreement between the injury victim and the defendant.

Under a structured settlement, the injury victim doesn't receive compensation for his or her injuries in one lump sum. Rather, he receives a stream of tax-free payments tailored to meet future medical expenses and basic living needs.

A structured settlement may be agreed to privately (for example, in a pre-trial settlement) or it may be required by a court order, which often happens in judgments involving minors.

Since their inception in 1975 there have been over $107 billion dollars of structured settlement annuity premium written by life insurance companies licensed to offer this product. In 2007 over $6 billion in structured settlement annuity premium was written, which was the highest one year premium amount since the inception of the product.[1]

What are the benefits of a structured settlement over a lump-sum payment?

A long-term structured settlement has several advantages. First, there is security. A structured settlement provides guaranteed long-term income. That gives the victim or the victim's family the ability to recover without spending time and resources determining investment strategies.

A second benefit is financial: When Congress amended the federal tax code to encourage structured settlements, it explicitly provided that 100 percent of every structured settlement payment would be exempt from federal and state income taxes.

[1] Patrick J. Hindert, “Structured Settlements and Periodic Payment Judgments”, Law Journal Press, 2008

If you choose a structured settlement to resolve an injury or wrongful death claim, you'll get more than guaranteed payments and peace-of-mind. You'll also get excellent returns.

Look at the charts below. On the left is a sample case involving someone who wants payments to begin immediately. On the right is an example of how structured settlements can be deferred to provide greater retirement security.

In both cases, a tax-free structured settlement provides far better returns and has no ongoing management fees.

Taxable Portfolio vs. Tax-Free Structured Settlement

The chart on the left compares the returns on two hypothetical $100,000 settlements. One is invested in conventional taxable investments at an interest rate of 6 percent. The other flows through a structured settlement earning the same rate.

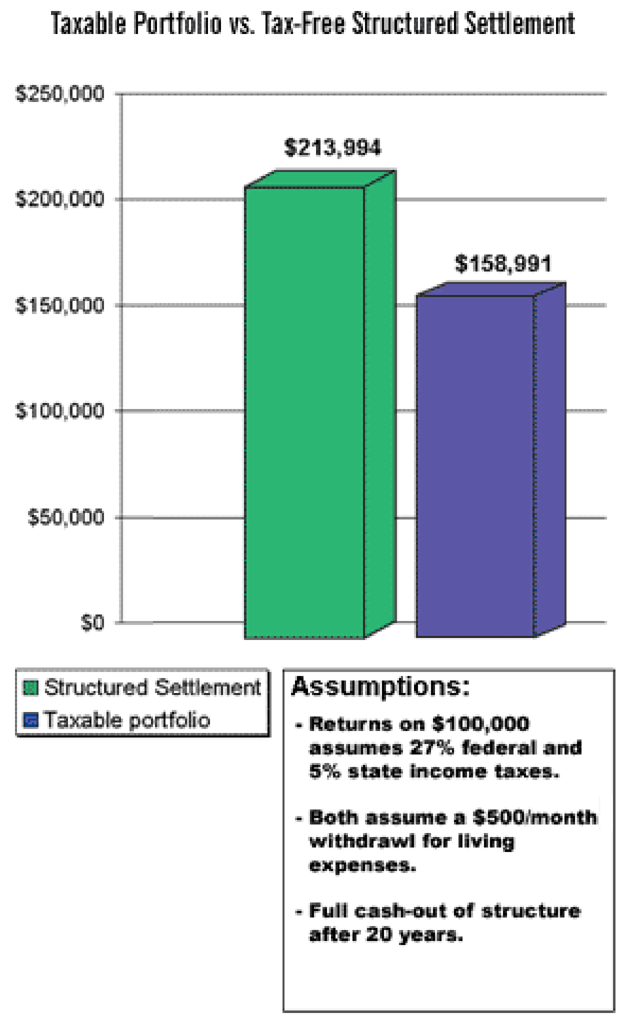
After 20 years, the total net income generated by the lump sum settlement is $158,991. By contrast, the total net payout generated by the structured settlement is $213,994 - a 35 percent increase.

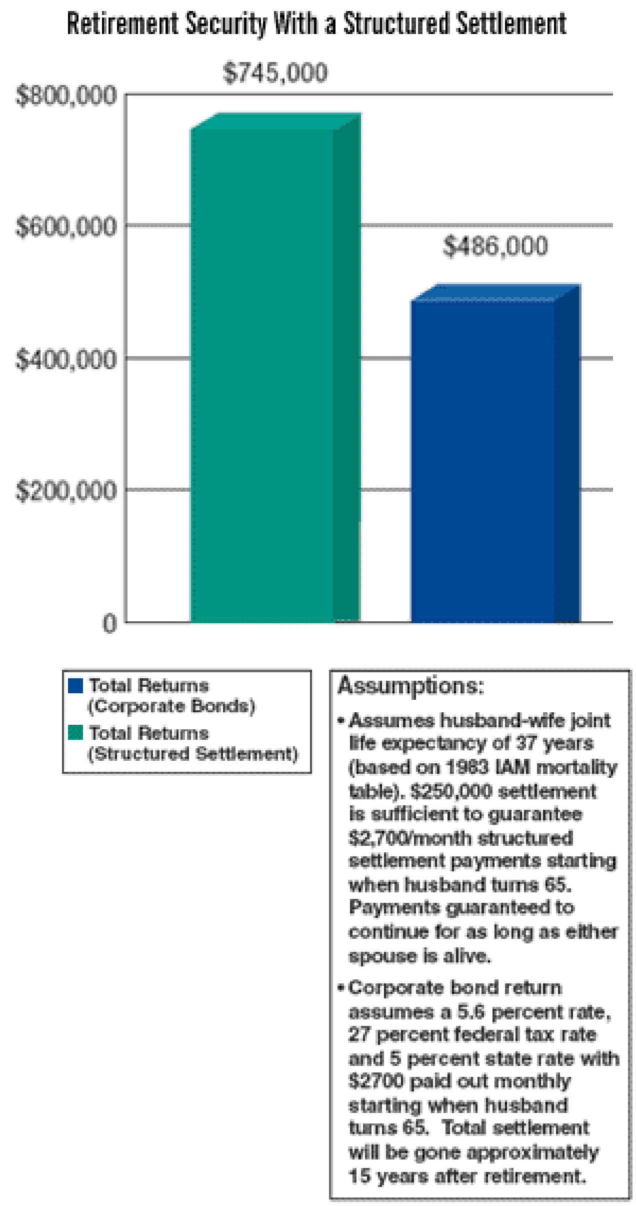
Retirement Security with A Structured Settlement

A 55-year-old man is injured in an auto accident. His wife is 53. The couple's attorney negotiates a $250,000 settlement that the couple uses for their retirement when the husband turns 65.

The couple considers two secure investments: corporate bonds and a structured settlement. Compare the dramatic difference in after-tax returns. The structured settlement provides a 65% higher return than corporate bonds - and is a more secure investment too!

The graphs on the following page illustrate this example.





What kind of flexibility do I have in setting up a structured settlement?

Structures are exceptionally flexible and can be designed for virtually any set of needs. A relatively simple payment schedule can be set up that provides for equal payments at set intervals - for example, every month for 20 years.

Yet payments need not be in equal amounts. Someone who will need a new wheelchair every three years might elect to receive a larger payment every 36 months to help defray the cost. (This would presumably be in addition to the regular payments.)

Structured settlement's inherent flexibility means that they are well-suited to compensate people for a wide variety injuries. Your attorney or a structured settlement broker will be able to explain additional details as they apply to your case.

Why were structured settlements created?

Historically, damages paid because of an injury lawsuit came in the form of a single lump sum. This kind of payment, especially in catastrophic injury cases, often placed the injury victim (or family) in a difficult financial position. With the victim focused on adapting to a new lifestyle, there often was not the time to manage large sums of money.

That can lead to serious trouble. A person who loses funds intended to cover a lifetime of medical care runs the risk of losing medical care and independence. They also risk winding up on public assistance

That's why, in 1982, a bipartisan coalition of legislators in Congress came together to pass legislation that amended the federal tax code. Their action, The Periodic Payment Settlement Act of 1982 (Public Law 97-473), formally recognized and encouraged the use of structured settlements in physical injury cases.

Who determines the amount of payments and the payment schedule?

In any physical injury case, the plaintiff and defendant negotiate issues such as the victim's medical care and basic living and family needs. Oftentimes, one side (or both) will bring in an expert, such as a structured settlement broker, who provides calculations on the long-term cost of these needs.

When there is agreement on the benefits due to the injury victim (which can happen before, during or after a lawsuit), the defendant will agree to fund a stream of payments that meet these needs. The defendant then assigns this obligation to an experienced third party, such as life insurance company, that funds the damage payments with an annuity.

An annuity has been the preferred way of funding because of its pricing and flexibility. An alternative is a trust fund which invests only in United States Treasuries.

As these issues involve complex calculations, you should always consult your attorney and a structured settlement professional.

Are structured settlements more likely to be used in certain types of cases?

Structured settlements can be ideally suited for many types of cases, including:

- Persons with temporary or permanent disabilities;

- Guardianship cases that may involve minors or persons found to be incompetent;
- Workers compensation cases;
- Wrongful death cases where the surviving spouse and/or children need monthly or annual income; and
- Severe injury, especially with long-term needs for medical care, living expenses and support of family.

Independent surveys show that the more serious the injury, the greater the likelihood that a structured settlement will be used.

I'm involved in a lawsuit now. Why should I consider structured settlement?

The tax-free payments from a structured settlement can:

- Relieve the financial pressures of medical expenses and living needs;
- Meet long-term rehabilitation or permanent care facility expenses;
- Provide for the future costs of college funds, retirement, down payment on a home, or mortgage payment; and
- Provide long-term financial security.

Someone has offered to purchase my structured settlement payments. What should I know before I do this?

It is important that you seek the advice of a trusted attorney. If you do not have an attorney, you may wish to call the attorney who originally negotiated your case. If you cannot reach that person, you might also consider contacting the office of your state's attorney general.

In recent years, more than 40 states and the federal government have enacted consumer protection statutes that establish strict conditions for these transactions. Under the federal law, court oversight and approval is required for injury victims who chose to sell payments from a structured settlement to a third-party company.

Also, advocates for consumers and the disabled have publicly called attention to the practices of firms engaged in the purchase of structured settlement payments. These groups include the Consumer Federation of America, The National Spinal Cord Injury Association and the National Organization on Disability.

What are some of the federal tax rules that make structured settlements beneficial?

In The Periodic Payment Settlement Act of 1982 (P.L. No. 97-473), Congress adopted specific tax rules to encourage the use of structured settlements to resolve physical injury cases.

Section 104(a)(2) of the Internal Revenue Code clarifies that the full amount of the structured settlement payments is tax-free to the victim. (By contrast, the investment earnings on a lump sum payment are usually fully taxable.)

What is a "qualified assignment"?

The defendant or its insurer may transfer the obligation to make future payments through a "qualified assignment" to a financially secure and experienced institution - a life insurance company, for example. The assignment provides the injury victim with strong financial security, and the defendant can close its books on the case.

This process relieves the defendant of further responsibility for the payments and transfers the administration and record-keeping responsibilities. The assignment company specializes in these activities and may offer additional financial security to the claimant.

What other federal tax rules govern the use of structured settlements and qualified assignments?

In order to protect the public, Congress specified in Section 130 the requirements to establish a qualified assignment:

- The assignee assumes the liability from the defendant;
- Both the victim (and his/her attorney) and the defendant agree that the payment schedule cannot be "accelerated, deferred, increased or decreased";
- The payment stream may be excluded from the recipient’s gross income for tax purposes;
- The injury must be a physical sickness or injury; and
- A highly secure funding asset (such as an annuity or U.S. Government obligation) must be used to fund the payments.

What fees are involved in a structured settlement?

Structured Settlement Consultant are paid a ***one time*** commission by the Life Insurance company issuing the Structured Settlement annuity. Each structured settlement annuity life insurance company pays the ***same*** commission of 4.00% of the structured settlement premium amount to the structured settlement insurance agency with which the individual consultant is appointed. ***Therefore, there is never an incentive for any consultant to place the annuity with a particular annuity company because of higher compensation for themselves. The only factor in selecting the specific annuity company with which to place the annuity is safety and the best payout for the annuitant***.

The compensation the individual consultant receives from his or her structured settlement agency with which he or she is appointed depends on their individual contract with that agency. In addition the commission is usually split 50% / 50% between a plaintiff and defense structure consultant if there are consultants on each side of the case.

Each structured settlement annuity company also charges administrative fee (also called an Assignment Fee) which can range from $250 to $750 depending on the company.

There are no additional fees associated with a structured settlement annuity. The life insurance company that issued the annuity makes their money off of the difference in the investment return they make on the investments funding the payments and the amount that they are paying out to the annuitant.

No matter how much additional work is associated with the structured settlement annuity in the future we will continue to service our clients as long as there is a need and long after we have received our fee.