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Structured Claim Settlements

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Are structured settlements still a viable tool?

Structured claim settlements have often been a preferred method of resolving serious bodily injury and workers' compensation claims. However, recent poor performance of the stock market and low interest rates have made some risk managers and financial officers question the current viability of such settlements. In truth, the best time to design a structured settlement is when interest rates are high. The next best time is when interest rates are low.

What Is A Structured Settlement?

Structured settlements are a cost-effective tool for settling claims and lawsuits. Such settlements are annuity-based packages that provide a benefit for the claimant at a price that is discounted to the defendant. A structured settlement package usually consists of two basic elements: (1) cash to pay expenses such as attorney fees and medical bills, and (2) a periodic payment to the claimant to provide for his or her ongoing needs. Specialists provide assistance by designing the packages, attending settlement conferences and advising on settlement matters. Structured settlements that qualify under section 104(a)(2) of the Internal Revenue Code (I.R.C) can provide the benefit of tax-free income to the claimant.

Why Use Structured Settlements?

It is common for the average recipient of large sums of money, whether lottery winners or claimants in large settlements or judgments, to spend all the money within a fairly short period of time. In some cases, the money is depleted within 3-5 years or less. The "anti-spendthrift" effect of structured settlements provides a strong public policy argument for their use.

With a structured settlement, the claimant receives a variety of benefits including tax-free income and options for guaranteed payments, lifetime income and increasing benefits. In other words, the funds are certain to be there when needed.

Why Use Annuity-Based Structured Settlements?

Annuities are a preferred vehicle to fund structured settlements because insurers are able to use a conservative mix of bonds and equities while still providing a guaranteed rate of return to the claimant that can last for many years. In addition, annuities provide a wide variety of options for funding the periodic payment portion of the settlement.

Claim settlements can be structured in a number of different ways, depending on the needs and wishes of the claimant. Some of the available options are:

- Level payments at regular intervals over the claimant's lifetime
- Payments made at regular intervals with an increase over time
- Level or increasing payments with a "period certain" feature that provides a minimum guaranteed payout to a beneficiary in the event of the death of the recipient within the period certain term
- Payments at regular intervals over a claimant's lifetime, plus additional lump sums at specific dates
- Payments at regular intervals over a fixed period of time regardless of the claimant's lifetime
- Payments over a lifetime, plus a lump sum at the time of the claimant's death if total benefits paid are less than the annuity cost

• Variations of the above plus a medical trust to be used to pay anticipated needs such as medical bills with or without reversionary features so as to return unused funds to the defendant

When the defendant completes an assignment in accordance with I.R.C. Section 130 using a "qualified assignment" all the funds flow to the claimant free of federal income tax and the defendant can deduct the cost of the structured settlement in the year paid.

The Myth Of The Older Claimant

Many people think of using structured settlements only when the claimant is young, allowing for many years of interest accrual and tax advantages. If the claimant is a minor, it may be possible to generate a tax-free rate of return of 8-10%, which could equal a taxable rate of return of 10-12%.
However, even older claimants can benefit from such settlements. There is no better way to secure their future than a lifetime of guaranteed income with a tax-free structured settlement.

Summary

Even with today's plunging stock market and low interest rates, annuity-based structured settlements provide businesses with an opportunity to avoid costly and risky litigation and at the same time reduce the potential for a huge cash claim settlement. In addition, structured settlements can protect the assets of the claimant by assuring the future income.

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