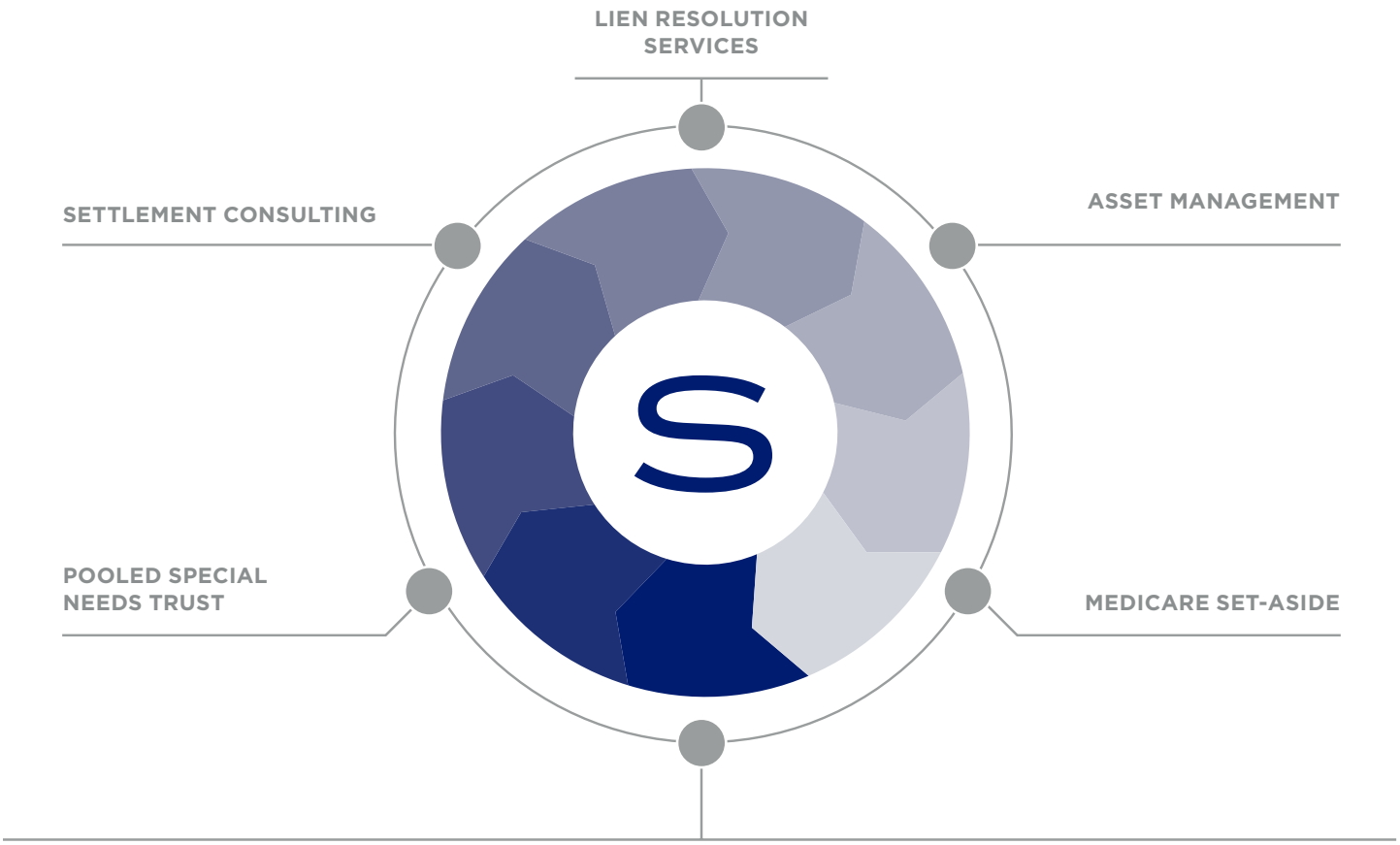

SYNERGY

ATTY FEE DEFERRAL SERVICES

What is Attorney Fee Deferral?

You already know that structured settlements help maximize settlement value for your clients by providing a steady, low-risk source of income with long-term tax advantages. But did you know you can structure your attorney fees? Using attorney fee structures, plaintiff attorneys can defer their fees and income taxes on those fees for personal injury cases as well as many other types of cases. A lawyer can defer taxes on his or her fees as well as the investment interest earned until the year in which a distribution is actually received from the fee structure.

A fee structure can help a lawyer avoid the highest tax brackets by leveling off income spikes due to large fees and spreading the income out over several years. An attorney who otherwise would have an unusually high income in the current year, but elects to spread the income over several years, may avoid paying taxes in the highest bracket or at the very least will defer taxation over a number of future years. Couple the tax savings with guaranteed earnings on the deferred funds, and the benefits of an attorney fee structure become very obvious. An attorney fee structure allows an attorney to set up a personally tailored retirement plan without the monetary and age restrictions or other drawbacks of a qualified plan.

Structured attorney fees work very much like a non-qualified deferred compensation plan. The taxes that would be otherwise paid on the fee earned at the time the case is settled are deferred, and that money grows without tax on the growth. When distributions are made, the entire amount distributed during a year is taxable for that year. Based upon a taxpayer's tax bracket, there may be some distinct tax advantages to entering into this type of arrangement as opposed to being taxed on the entire fee in the year it was earned and then investing it after tax.

Fee structures can be done by one attorney in a firm, without the requirement that other attorneys and employees participate, as would be the case in a qualified retirement plan. Also, there is no limit to the amount of income deferred. By comparison, there are statutory limits to the amount one can defer in a qualified retirement plan. Even if the attorney participates in a qualified retirement plan or individual retirement account (IRA), he or she may still defer additional income through an attorney fee structure.

Unlike traditional retirement plans, there is no requirement of annual deferments. An added bonus is that the attorney fee structure annuity has enhanced creditor and judgment protection other investments can't provide.

In summary, a fee structure allows a plaintiff lawyer to not only defer receipt of (and tax on) fees until received, he or she can have the deferred fees invested, and have the income produced from it also taxable over time rather than immediately. A lawyer may want to consider structuring fees as part of his or her own income tax planning, financial planning, and estate planning.

**IRS REQUIRED TAX DISCLOSURE: Information contained herein is not intended or written to be used, and cannot be used, for the purpose of avoiding any tax penalties. This document is written to support the promotion or marketing of the transactions or matters discussed. You should seek advice based on your particular circumstances from an independent tax advisor.*

Key Reasons to Defer Attorney Fees

- It is a pretax investment in a guaranteed high yielding tax deferred annuity.
- Deferring compensation over time results in less being lost to taxes.
- Application of AMT can potentially be avoided.
- Gives you custom cash flow management and allows you to tailor your own income stream.
- Structured fees have enhanced protection from creditors, judgments and divorce decrees.

Attorney Fee Deferral FAQ

Does the personal injury victim have to structure a portion of their settlement before the attorney fee can be structured?

No. The claimant can take one hundred percent cash and the attorney fee can still be structured.

How does fee structuring work?

Structuring an attorney fee works very similarly to structuring the victim's settlement. The most important thing to remember is you can't take receipt of the fees.

Why structure my attorney fee in a fixed interest rate annuity?

Every portfolio should have some portion of the investments in fixed income. An attorney fee structure is a fixed income investment but unlike all others an attorney can make, the fee structure is a pre-tax investment. Whether a fee structure is appropriate for you will depend on a variety of factors, including your age, health, risk tolerance, retirement goals, tax bracket as well as your current and long-term needs. However, structuring your attorney fees could provide beneficial tax relief as well as secure and stable tax deferred income up to, and including, your lifetime.

Can I receive the same types of income streams the victim can with their settlement proceeds?

Yes, you can have lifetime benefits. You can have a period certain for a defined amount of time or a future lump sum payment as well as a series of lump sum payments. You can select immediate or deferred payments. You can have multiple income streams such as lifetime payments coupled with lump sum payments.

Can I only structure contingent fees from a personal physical injury or wrongful death settlement?

No. You can structure contingent fees from nearly any type of settlement. Companies have developed innovative products to expand the availability of attorney fee structures.

What is the legal basis for structuring attorney fees?

The U. S. Court of Appeals for the 11th Circuit affirmed in Richard A. Childs, et al. v Commissioner of Internal Revenue that attorneys may structure their fees, holding that taxes are payable on structured attorney fees when the amounts are received. See Childs v. Commissioner, 103 T.C. 36, aff'd 89 F.3d 856 (11th Cir. 1996).

What do I need to do to prepare for structuring my attorney fees?

You should negotiate the inclusion of the fee structure when settling the case since the creation of a tax-deferred fee structure does require the cooperation of the defendant similar to when the victim's settlement is structured.

Can I defer fees without using an annuity?

Yes. Instead of tying your fee deferral to the conservative returns of annuities, you can tie your returns to a customized investment portfolio. Like Fortune 500 executives deferring their compensation, lawyers can exercise greater control over the timing of income and resulting taxation but with market based returns.

What are the advantages of a non-annuity based fee deferral program?

By having more flexibility (timing of income & investments), you can plan better for your financial future. It can also increase your borrowing capacity. Lastly, it can be used by your law firm to fund a retention plan for key associates and employees, mitigating the risk of important people leaving the firm, and taking valuable cases with them.