

STRUCTURED  
SETTLEMENTS



PACIFIC LIFE

# Structured Attorney's Fees

Preparing for Your Financial Future

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## Why Pacific Life

It's essential for you to choose a strong and stable company that can help you achieve your future income needs. Since 1868, individuals and their families have relied on the strength of Pacific Life to help protect their financial security.

- Pacific Life Insurance Company is organized under a mutual holding company structure and operates for the benefit of its policyholders and contract owners.
- We have achieved ongoing recognition<sup>†</sup> for high-quality service standards.
- We offer products that address market environments during all stages of your life.
- We maintain strong financial strength ratings from major independent rating agencies.

Ratings may change. For more information and current financial strength ratings, please visit our website.

Insurance products are issued by Pacific Life Insurance Company in all states except New York and in New York by Pacific Life & Annuity Company. Product availability and features may vary by state.

<sup>†</sup>Recipient of multiple DALBAR Service Awards since 1997. Refer to [www.DALBAR.com](http://www.DALBAR.com) for more information regarding awards, certification, and rankings.



# Planning for the Future by Structuring Attorney's Fees

As an attorney, you can enjoy some of the same benefits as your personal injury clients by structuring contingent fees for future payment.

This unique benefit can defer your income for future needs such as:

- Retirement
- Children's education
- Stabilizing income for your practice

## Benefit Types

Pacific Life allows you to customize your payment streams specifically to help manage future needs.

Benefit types include:

- A lifetime of income that you cannot outlive. Structuring fees also can protect both you and your spouse.
- Growth potential with the optional Index-Linked Annuity Payment Adjustment Rider.
- Payments for a specific period to help eliminate possible concerns such as paying your home mortgage or funding education costs for your children.
- Lump sums to help pay for a large purchase.

## Payments to You or Your Firm

- By electing to have payments made to your firm, you can guarantee income to help meet payroll needs or pay your business mortgage.

## Design a Benefits Package to Fit Your Needs

- Start payments immediately or defer the payment start date up to 20 years.
- Add a cost-of-living adjustment to help offset inflation.

# Managing Your Retirement

Whether you begin to take payments immediately or defer until sometime in the future, a structured settlement attorney's fees annuity can help maximize and protect income for the rest of your life. It's important to keep in mind that the average number of years spent in retirement is growing steadily. People are living longer as advancements in healthcare and science continue to improve. Understanding your life expectancy and how to manage the resources you'll need to be comfortable in retirement are the first steps of successful planning.

## Life Expectancy for a 65-Year-Old in 2014



- About one in every four 65-year-olds today will live past age 90, and one in 10 will live past 95.
- The life expectancy for a couple, both age 65, is more than 89 years.

Source: Social Security Administration, 2014.

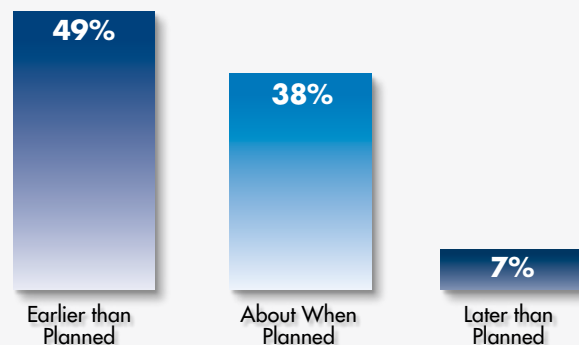
## When Do You Plan to Retire?

Your timetable for retirement may not be what you planned.

- External factors may cause you to retire earlier than you thought.
- If you have investments in financial markets, the value may be higher or lower than you expected when you begin to take income.

## Retiring Earlier, Living Longer

With longer life spans and an earlier retirement, you may live in retirement for more years than you expected.



Source: Employee Benefit Research Institute, 2014. Retirement Confidence Survey, March 2014. Percentages do not total 100%.

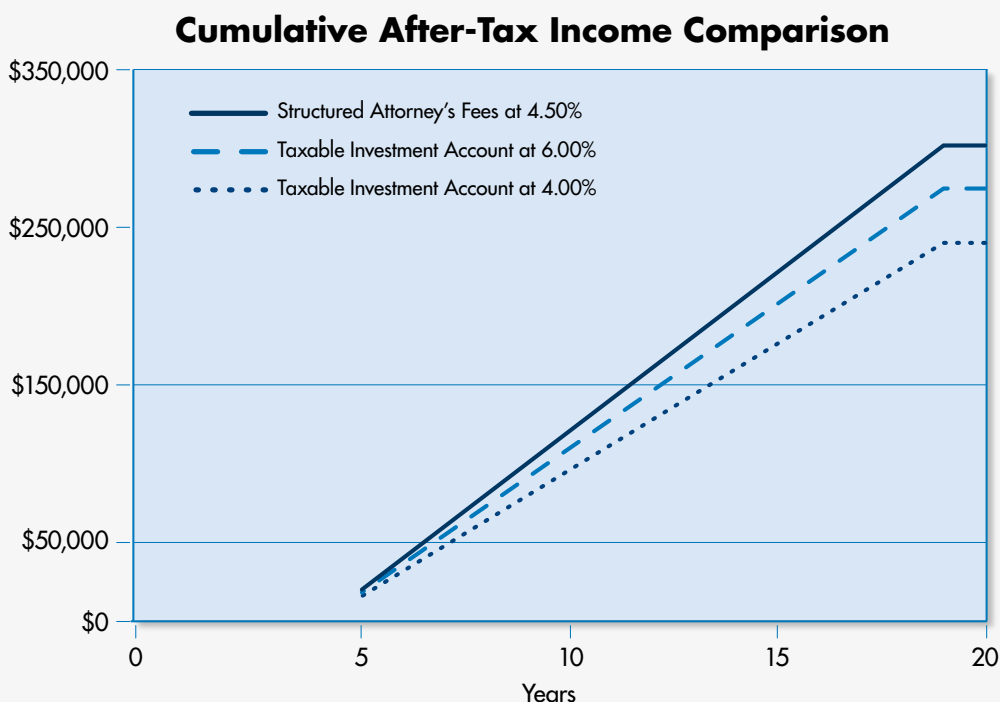
# The Power of Tax Deferral

## Defer Your Income

- By structuring your fees, you may reduce your current and overall income-tax burden by postponing the income and spreading the taxable income over time. Instead of being taxed now on the entire amount, your income payments are reported to the IRS in the year you receive them.
- There may be no limits to how much you can defer by structuring your fees.

**Deferring the taxation of income can result in a higher net amount to you.** The following graph shows a hypothetical after-tax cash flow from structured attorney's fees in comparison to income from taxable investment accounts. Payments for all examples start in five years and are scheduled to last for 15 years.

Assumption: The attorney's fees are \$300,000 with income beginning after five years for a 15-year period certain and a 4.50% internal annual rate of return with the payments taxed at 39.6%. The hypothetical taxable investments use a 6% and 4% annual rate of return, respectively, and all interest earned is taxed at the rate of 39.6%.



## You Expect the Return Of and On Your Money

Some financial vehicles emphasize return based on the amount of risk. A structured settlement attorney's fees annuity can provide an income guaranteed for life, low investment risk, and a competitive rate of return.

A complete payment schedule, including how each alternative is taxed, is outlined on the following pages.

# Structured Attorney's Fees

Assumption: \$300,000 attorney's fees with income beginning in five years and ending 15 years later.

## Structured Attorney's Fees

Hypothetical Rate of Return	4.50%	Income Tax Rate	39.6%
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Year	Pretax Payment	Tax	After-Tax Payment	After-Tax Cumulative Payment
0				
1	\$0	\$0	\$0	\$0
2	\$0	\$0	\$0	\$0
3	\$0	\$0	\$0	\$0
4	\$0	\$0	\$0	\$0
5	\$33,312	\$13,192	\$20,120	\$20,120
6	\$33,312	\$13,192	\$20,120	\$40,241
7	\$33,312	\$13,192	\$20,120	\$60,361
8	\$33,312	\$13,192	\$20,120	\$80,482
9	\$33,312	\$13,192	\$20,120	\$100,602
10	\$33,312	\$13,192	\$20,120	\$120,723
11	\$33,312	\$13,192	\$20,120	\$140,843
12	\$33,312	\$13,192	\$20,120	\$160,964
13	\$33,312	\$13,192	\$20,120	\$181,084
14	\$33,312	\$13,192	\$20,120	\$201,204
15	\$33,312	\$13,192	\$20,120	\$221,325
16	\$33,312	\$13,192	\$20,120	\$241,445
17	\$33,312	\$13,192	\$20,120	\$261,566
18	\$33,312	\$13,192	\$20,120	\$281,686
19	\$33,312	\$13,192	\$20,120	\$301,807
			<b>Total Net Income</b>	<b>\$301,807</b>

The rate of return for the structured attorney's fee will not change during the payout period. The amount and number of payments will be as stated in the contract.

The chart at right reflects the taxable rate of return needed by tax bracket to match a tax-deferred rate of return.

Tax-Deferred Rate of Return	Taxable Rate of Return Needed by Tax Bracket	
	<b>35.0%</b>	<b>39.6%</b>
3.0%	4.62%	4.97%
3.5%	5.38%	5.79%
4.0%	6.15%	6.62%
4.5%	6.92%	7.45%
5.0%	7.69%	8.28%
5.5%	8.46%	9.11%
6.0%	9.23%	9.93%

# vs. a Taxable Investment

## Taxable Investment

Hypothetical Rate of Return	6.00%	Income Tax Rate	39.6%
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Year	Pretax Payment	Interest	Tax <sup>1</sup>	Cumulative Payments	Remaining Balance
0			\$118,800		\$181,200
1	\$0	\$10,872	\$4,305	\$0	\$187,767
2	\$0	\$11,266	\$4,461	\$0	\$194,571
3	\$0	\$11,674	\$4,623	\$0	\$201,623
4	\$0	\$12,097	\$4,791	\$0	\$208,929
5	\$18,301	\$12,536	\$4,964	\$18,301	\$198,200
6	\$18,301	\$11,892	\$4,709	\$36,601	\$187,083
7	\$18,301	\$11,225	\$4,445	\$54,902	\$175,562
8	\$18,301	\$10,534	\$4,171	\$73,203	\$163,623
9	\$18,301	\$9,817	\$3,888	\$91,503	\$151,252
10	\$18,301	\$9,075	\$3,594	\$109,804	\$138,433
11	\$18,301	\$8,306	\$3,289	\$128,105	\$125,149
12	\$18,301	\$7,509	\$2,974	\$146,405	\$111,384
13	\$18,301	\$6,683	\$2,646	\$164,706	\$97,120
14	\$18,301	\$5,827	\$2,308	\$183,007	\$82,339
15	\$18,301	\$4,940	\$1,956	\$201,307	\$67,022
16	\$18,301	\$4,021	\$1,592	\$219,608	\$51,151
17	\$18,301	\$3,069	\$1,215	\$237,908	\$34,704
18	\$18,301	\$2,082	\$825	\$256,209	\$17,661
19	\$18,301	\$1,060	\$420	\$274,510	\$0
<b>Total Net Income</b>				<b>\$274,510</b>	

<sup>1</sup>Tax is on interest only and decreases with the remaining balance.

This is for illustrative purposes only. Changes in the interest rate will affect the balance remaining. Higher rates will generate a larger remaining balance and more taxes while a lower rate may reduce the amount of income that can be taken or the payments may end before the 19th year.

# How Can Fees Be Structured?

## Timing Is Everything

Preventing Constructive Receipt: The settlement agreement must be completed before the judgment is final. After the judgment is final, you are considered to be in constructive receipt of the fees.

## Establishing the Attorney's Fees Annuity

- The funding for the structured settlement would be paid by the defendant, the defendant's insurer, or from a trust as described in Section 468B of the Internal Revenue Code (IRC) and the underlying regulations pursuant to Revenue Procedure 93-34, 1993-2 C.B. 470, directly to Pacific Life & Annuity Services, Inc. (PLASI), in exchange for the assignment of the obligation.
- PLASI would then utilize the funding to purchase an annuity contract from Pacific Life to fund its obligations under the structured settlement.
- You would not actually receive the funding assets that are used to purchase the annuity contract, nor would you be the owner of the annuity.

### Childs v. Commissioner, 103 T.C. 634 (1994)

In the case of *Childs v. Commissioner*, 103 T.C. 634 (1994), *aff'd w/out publ. op.*, 89 F.3d 856 (11th Cir. 1996), both the U.S. Tax Court and the 11th U.S. Circuit Court of Appeals held that the attorney's fees to be paid in a future stream of payments were not currently taxable because no "property" had been transferred to the attorney within the meaning of IRC Section 83 and because the attorney did not have constructive receipt of the funds used to purchase the annuity. The courts rejected the IRS argument that the attorney was subject to immediate taxation under either IRC Section 83 or the doctrine of constructive receipt.



# Frequently Asked Questions

The following answers are for questions most often asked regarding structuring attorney's fees.

**Q. *What documents are required by Pacific Life?***

- A.**
- The original acknowledgement form and the Hold Harmless Agreement for Attorney's Fees form which confirms, among other things, that Pacific Life does not offer tax or legal advice and the decision to structure is wholly the responsibility of the attorney.
  - Acknowledgement language included in the Settlement Agreement and Qualified Assignment and Release documents.
  - Request for Taxpayer Identification Number and Certification (W-9).
  - Standard forms required include: application, proof of age (if applicable), Settlement Agreement, Qualified Assignment, and Release Agreement.

**Q. *Who guarantees my payments?***

- A.** All obligations to make future periodic payments assigned to Pacific Life & Annuity Services, Inc. (PLASI) are guaranteed by Pacific LifeCorp. This is evidenced by a Statement of Irrevocable Guarantee, which is issued with each assigned case. PLASI purchases an annuity from Pacific Life (PL) and directs PL to make periodic payments to the payee according to the benefit schedule.

**Q. *Must the claimant structure his/her own portion in order to structure attorney's fees?***

- A.** No. The claimant need not structure his/her own portion in order to structure the attorney's fees.

**Q. *Can I structure fees already paid to me?***

- A.** No. The IRS does not allow structuring money after there has been actual or constructive receipt of the fees or an impermissible economic benefit from the fees.

**Q. *Can I defer tax on fees paid on cases other than physical injury or workers' compensation cases?***

- A.** No. Tax may be deferred on attorney's fees only for amounts received as workers' compensation and/or damages on account of personal physical injury or physical sickness.

**Q. *Can I name or change a beneficiary?***

- A.** Yes.

**Q. *Can I structure cases after the judgment is final?***

- A.** No. The settlement agreement must be completed before the judgment is final. After the judgment is final, you are considered to be in constructive receipt of the fees.

**Q. *Can a structured attorney's fees annuity with Pacific Life include payments to the individual attorney and separate streams to the firm?***

- A.** Yes. You can customize benefit streams and payees. Please have your broker contact Pacific Life for full guidelines.

**Q. *Can I protect my income payments from the effects of inflation?***

- A.** The optional Index-Linked Annuity Payment Adjustment Rider can increase payments over time. Selecting the Index-Linked Annuity Payment Adjustment Rider may result in a varying benefit amount based on the annuity type and period selected. For more information, ask your structured settlements consultant.

# Legal Notes

Pacific Life obtained a legal memorandum from a nationally recognized law firm to support the attorney's fees structured program. The memorandum includes the following selected highlights.

## Stipulations Prior to Establishing a Structured Settlement for Attorney's Fees

- The attorney's fees are due pursuant to a contingent fee arrangement between the claimant and the attorney in connection with a suit for damages by the claimant (where the claimant was a plaintiff in a tort action against the defendant and/or its insurer) and the attorney agreed to receive periodic payments of the fee prior to the time of the execution of any settlement agreement, structured or otherwise ("Settlement Agreement"), between the claimant and the defendant and/or its insurer in the suit.
- Alternatives for structuring the attorney's fees as fixed payments payable at regular intervals over a set period or for life (or some combination thereof) were offered to the attorney as part of the negotiations for the settlement agreement between the claimant and the defendant and/or its insurer.

## Requirements When Establishing the Structured Settlement

- The attorney's fees are structured as part of a case in which the settled claim involves only amounts received as workers' compensation and/or damages on account of personal physical injury or physical sickness [excludable from gross income under IRC Section 104(a)(1) or (2), respectively].
- The assignment of the periodic payment obligation under the settlement agreement is made by the defendant and/or its insurer (with the consent of the plaintiff), and the plaintiff is designated as the "claimant" in all assignment documents.
- A Hold Harmless Agreement, signed by the attorney who is due fees, is required on all cases involving structured fees.

## Notations

- The periodic payments made to the attorney for the attorney's fees are part of a structured settlement of the case (even if the claimant chooses not to have other structured payments made to himself or herself).
- The Commutation Rider is not available for structured fees.

Thank You for Choosing Pacific Life.



For more information, consult with your structured settlements broker. Or, call us toll-free at (877) 784-0622, option 1.

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Contract Form Series: 10-1213, 25-21694

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