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# Structuring Your Settlement



A guide to Structure Settlements  
in Canada

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**BAXTER**  
Structures



## **Our mission statement:**

To provide knowledge and creativity in assisting the Insurance and Legal Industries with our experienced, creative solutions to settling large loss claims using a financial vehicle called a

### **Structured Settlement.**

We have been educating the Insurance and Legal community exclusively on Structured Settlements for over 28 years.

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## What is a Structure?

A Structured Settlement is a means of paying or settling a claim for damages on a periodic basis over a specified period of time or for life. The payments to the claimant are free from tax.

### How does it work?

In order for a Structured Settlement to be considered tax-free, it must follow certain criteria as outlined in Canada Revenue Agency's Taxation Interpretation Bulletin IT365R2.

1. Settlement must be made from a claim for personal injury or death
2. An agreement must be made between the Casualty Insurer and the Claimant to settle by way of a Structured Settlement
3. The Casualty Insurer must purchase a single premium annuity to produce the stream of periodic payments outlined in the settlement agreement.
4. The Casualty Insurer must be named as owner, annuitant (beneficiary) of the annuity contract.
5. The annuity contract must be non-assignable, non-transferable and non-commutable.
6. There must be an irrevocable direction for payments to be made to the claimant
7. The Casualty Insurer must remain liable to make the periodic payments as outlined in the settlement agreement should the life insurer defaults.

The Structured Settlement is extremely flexible in design. It can provide for short-term or lifetime payments commencing immediately or deferred to a later date; indexed at a fixed interest rate or linked to the C.P.I. (Consumer Price Index) to offset inflation and can also include a series of lump sum payments.

## What are the concerns of Investing “Lump Sum Settlements?”

1. Very few people have the experience or desire to invest large sums of money. Without investment skills and experience, there is the risk of losing or spending the settlement money while there are still ongoing financial needs.
2. Interest income or dividends are usually paid semi-annually or annually in arrears, to get the best rates. If monthly payments are made, the rate of return is often lower which will prompt strict budgeting.
3. The initial settlement is tax-free but once invested, the income generated is taxable, along with any other income, resulting in less spendable income.
4. Unlike structured settlements, some investments may not be indexed to inflation. To keep up it may become necessary to dip into the investment, leaving less and less for future income.
5. Outside consultants charge fees for services.
6. Returns can change from year to year.
7. The risk factor is high.

# Advantages of a Structure Settlement

1. **Protected** by three guarantors
  - a) Assets of the life insurer
  - b) Assuris – which is similar to the CDIC at the banks
  - c) Assets of the Casualty Company
2. **Inflation proof** – no matter what inflation does, the annuity can keep pace (optional)
3. **Individually designed** to meet specific financial needs for additional flexibility by keeping a portion of the remaining settlement funds aside for emergency needs.
4. **Management free** – there is no cost for administration of the funds
5. **Risk free** – no investment decisions, the capital cannot be mismanaged
6. **Financial advisors cannot encroach on the capital**, thereby preserving it for future use
7. **Annuity rates are guaranteed** not to drop for the full term of the annuity
8. In the event of a premature death, **all remaining payments will pass to the estate, tax-free**
9. **Tax-free to you and to your estate** or named beneficiary in the event of an early death
10. **The Structure guarantees long term financial security** to the family



11. These unique benefits are **available, only at the time of settlement** of a personal injury or a fatality claim
12. You can never outlive the payments

## Guarantors of an Annuity

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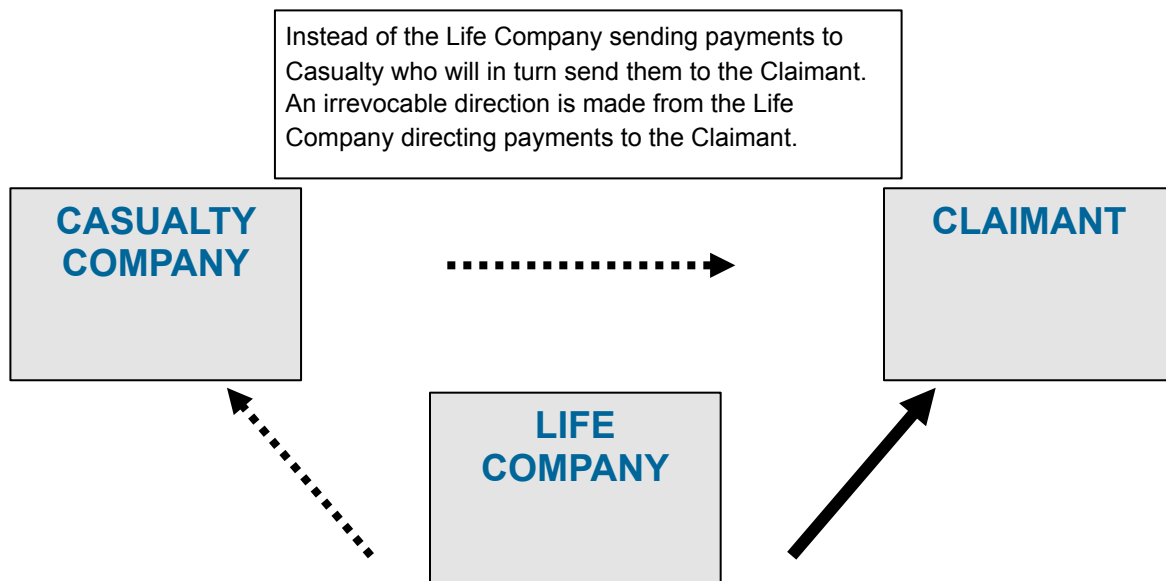
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There are 3 guarantors for a Structured Settlement.

8. **Life Company** – The Life Company issues the periodic payment stream for the duration of the contract.
9. **Assuris** – Similar to the CDIC at the bank
10. **Casualty Company** – The Casualty Company is named as the owner of the annuity contract for the duration of its payment stream and therefore remains liable to the extent of the payment period.

Assuris is a not for profit organization that protects Canadian policyholders in the event that the life company should become insolvent. Assuris is funded by the life insurance industry and endorsed by government.

Structured Settlements are tax free as per Canada Revenue Agency's taxation bulletin pertaining to Structured damage award settlements; IT365R2



## Types of Structures Available



When we design the Structured Settlement, we discuss your future needs and desires to provide a specific payout using one or a combination of the following plans available.

### TERM CERTAIN

The payment period is set for a specific period of time and then stops; whether or not the claimant is living. It can be paid to a specific age or for a pre-determined number of years.

Ex. Term Certain 30 years, or Term Certain to age 65

### LIFETIME ANNUITY

The payment stream is guaranteed for the duration of the claimant's lifetime, usually containing a minimum guarantee period to the Estate. The guarantee period can be from 5 – 40 years and will provide security for remaining family members if there is a premature death.

### LUMP SUM PAYMENTS

These may be referred to as “balloon payments” as they can be for any value and at any time in the future. They are to be added to the basic annuity plans mentioned above for future expenses, education, vacations, or investment opportunities.

### INDEXATION

The plans can be indexed at a fixed rate of 1% all the way to 6% to offset inflation. We can also provide payments to be linked to the Consumer Price Index (CPI) to guarantee that payments are rising at the same rate as current inflation.

Any variation or merging of annuity plans can be designed. It's just a matter of matching them to your specific needs.

## Our Role

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Our role is to provide you with experienced, creative solutions to your settlement problems, bridging the gap between plaintiff and defense counsel. When you call our firm for Structured Settlement quotes, we will ask you for the following information in order to obtain the best possible yields:

- Injured individual's name and date of birth
- Type of injuries sustained
- Date of Accident
- Family members; dependants, spouse
- Medical Reports
- Cost of Future Care Report
- Gender

We will attend mediations and settlement conferences to provide up to the minute quotations to assist in the closure of the case.

Once a Structure has been placed, we will prepare the following documentation in order to meet the requirements of Canada Revenue Agency, Taxation Dept.

1. Provide **confirmation** of Structure letter to all parties
2. Send a **precedent Judgment / Order and Full and Final Release** documentation for Structured Settlements
3. We will **review YOUR documentation** to confirm it meets the tax-free requirements set by Canada Revenue Agency
4. If needed, we will prepare documentation for an Advanced Income **Tax Ruling with Canada Revenue Agency, Taxation**
5. Provide the claimant with our **Corporate Guarantee** that we will act as liaison between them and the life company for the management of the annuity for its duration, free of charge
6. When all requirements are met, we **distribute completed annuity contracts** to all parties involved
7. Provide Casualty Insurer with our **Structure Report** outlining the details of the settlement for easy perusal and reporting.

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8. If needed, we will **prepare the Assignment and Assumption Agreement** for execution and disbursement.

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## Our Experience

For over 29 years we have been working with Lawyers, Plaintiffs and Insurance Personnel to provide greater value in the structuring of personal injury claims settlements.

We specialize in Service and Creativity.

Our background experience is in a variety of disciplines from casualty claims, accident investigation, negotiations, life insurance, annuities, pensions, benefits and of course Structured Settlements, all of which means we are well qualified to look after your interests.

**Our role is to assist you in designing the most appropriate plan  
for you, by listening to you.**

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