



SALE OF STRUCTURED SETTLEMENT PAYMENTS

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The sale of structured settlement payments is now legal.

Last year, attached to the Victims of Terrorism Act, the federal government passed a law approving the sale of structured settlement payments (I.R.C. §5891). Also, 36 states, including Florida (Fla. Stat. §626.99296), have passed laws approving the sale of structured settlement payments.

However, there is no law to say how much anyone has to pay you for your structured settlement payments. Therefore, it is important to deal with a company that is honest and trustworthy, sellers are advised.

Many individual claimants are selling their structured settlement payments and many more are now thinking about selling in order to use the money for different purposes. Knowing the history and current state of this market will help you or your clients make the best decision in this area.

Before the state and federal laws were passed, structured settlement payments were sold in the "gray market." These sales were made without appropriate disclosure to the seller, without the seller having the opportunity to obtain independent professional advice and without notifying the insurance company who was making the payments. And, the prices paid to sellers were unfairly low.

In researching the market, and meeting with members of the structured settlement community – the structured settlement brokers, the trial lawyers and the insurance companies – it quickly became obvious that the entire structured settlement community agreed with the need to provide flexibility in structured settlements in order to deal with life's changes. What everyone objected to was the way the solution had been provided – an unfairly low price, which took advantage of an individual's distressed circumstances.

Many times, the flexibility and liquidity provided by the sale of structured settlement payments is valid, useful and necessary. After the creation of the structured settlement, lives change and needs change – it is impossible for anyone to predict days into the future, let alone years.

Individual sellers use the money for different reasons. Some use it to pay for medical care or college or job training expenses, some to pay estate or other taxes, others to buy a house or save a house from foreclosure, start a business, or consolidate credit card debt.

The structured settlement industry recognized this and lobbied for new federal and state laws governing the transfer of structured settlement payments. The National Structured Settlement Trade Association and the American Association for People with Disabilities were instrumental in promoting the new laws.

Now, individual claimants can respond to life's changes and unforeseen needs by selling their structured settlement payments for a fair price in accordance with the law.

However, there are no laws to say how much anyone has to pay you for your structured settlement payments. If you need or want to sell all or some of your structured settlement payments, if you are thinking about it, or if you have a client who is in this situation, we encourage you to deal with a reliable and trustworthy company that deals with you in a straightforward and upfront matter.

You should deal with a company that encourages sellers to obtain professional advice, that provides a disclosure statement explaining the purchase in accordance with the law, and that gets a court order approving the sale.