

ATG Trust Provides Structured Settlement Services

A structured settlement is most commonly used in personal physical injury cases and allows for the payment of the settlement, or a portion of the settlement, to be paid over time.

A recent case highlights how ATG Trust's unique blend of expertise helped an attorney working with injured individuals and their families during the claim settlement process. ATG Trust was retained, at no cost to the plaintiff attorney or the client, to review the case and proposed settlement. We were also asked to work with the insurance company and their structured settlement professional to craft the settlement payments into the best plan to meet the short and long term needs of the injured party.

A structured settlement was entered into along with a guardianship with ATG Trust serving as co-guardian. ATG Trust was able to integrate the structured settlement and the guardianship to secure a lifetime of income for the injured individual while also providing for near term financial needs.

What, exactly did we do? The plaintiff's lawyer certainly did yeoman's work in fighting for and securing a settlement. Our job was to *review the details of the settlement terms and payment streams proposed*. We then ran a comparison of rates against *all the other available insurance providers* to assure the plaintiff's attorney that the deal proposed was the best one available. In this case, it was. But without independent review there was no way to know that. We also checked to make sure none of the industry trade "secrets", like misusing the "rated age" of the injured party, were there. In short, we provided a no cost, independent look at the entire proposal so that the attorney could faithfully represent to his client that all was in order.

How could this be done for no cost? In these transactions, the insurance company pays a set commission to the broker. They do not care who gets it, so when we fight for our side, the broker on the defense side must share the total commission. Even better is that under the right circumstances our member attorneys can share in that payment.

The benefits of a structured settlement in a personal physical injury case are:

- All structured settlement payments are tax free
- Payment stream customized to claimant's situation
- Guaranteed payments
- Benefits may be medically underwritten to provide for larger periodic payments.

The tax-free payments from a structured settlement can relieve the financial pressures of medical expenses and living needs, meet long-term rehabilitation or permanent care facility expenses, provide for the future costs of college funds, retirement, down payment on a home, or mortgage payment, and provide long-term financial security.

ATG Trust specializes in working with attorneys on cases that involve, or may involve, a structured settlement.

Contingent attorney fees can also be structured as can other tort claims. The payouts will not be tax-free but can qualify for tax deferral. ATG Trust also is one of the few national providers of qualified settlement funds (also referred to as 468B trusts).

Like almost all of ATG Trust's products and services, structured settlements generally qualify for fee sharing with the referring attorney. Restrictions do apply, so call us for details.

ATG Trust has a unique ability to blend both tax-free and tax deferred structured settlements with guardianships and trusts. Our business is designed around the practice of law and this is another example of our dedication to helping our Members and their colleagues in their practice of law by serving their clients in the most responsible and ethical manner.

Please call us with your structured settlement questions.

The Top 10 Things They Did Not Teach Me In Law School

By Dennis Norden, Senior Vice President and General Counsel, ATG Trust Company

Upon starting the actual practice of our profession, nearly every attorney begins to realize how little he or she knows. Here is a list of some of the things I had to learn, in many instances, the hard way.

10. Be very wary of the opposing counsel or client who addresses you as "counselor." For some reason, these people are not to be trusted.
9. Return phone calls to other attorneys at 11:30 a.m. and at 4:30 p.m. This is when you are most likely to actually make contact.
8. Do not let yourself be a prisoner to the idea of the "billable hour." Charge at fees, whether it is litigation or transactional. Most clients hate getting charged for a phone call. Nearly all clients want to know at the onset what it is going to cost.
7. If you practice in a true partnership, whatever form it may take, remember that there is no "fair" way of allocating compensation among partners. Everyone thinks that they are under-compensated: the rainmakers, the transactional lawyers, the big fee contingency folks. I once knew of a two-lawyer firm that broke up whenever either of them would take in a big probate case.
6. Learn to work with other professionals, such as certified accountants, investment brokers, insurance people. Develop mutually "safe" relationships with these folks. They can and will be great sources of new business for you. You should not be afraid to refer business to them, either. Do not always insist on acting as quarterback of a professional network working together for the same client. Sometimes it is appropriate to be the leader, sometimes not.
5. When a legal question arises, read the statute books first. It is amazing how many answers are there.
4. Be available. In today's era of cell phones and e-mail, there is no excuse for not promptly returning phone calls from clients. I have found that availability is one strong trait of every great lawyer I have known.
3. Always, always tell the truth. There are times that call for silence, but never knowingly make any misrepresentation to anyone, whether to a judge, client or opposing counsel. Your credibility as a lawyer is the most important thing about you.
2. In any dispute, keep your hands on the money for as long as possible. Once you lose control of it, you lose any negotiating position you may have had.
1. Maintain a balance in your life. This is a very hard lesson to learn. Make sure there is time for your family and friends. Take time for yourself, too. My former partner used to say, "Thank God it's Friday, there's only two more days to work this week." Don't let this happen to you.

When A Trust Is Not The Answer...

For whatever reason, perhaps a bad experience, misinformation, fear of loss of control, cost concerns, family pressure, etc., sometimes clients just will not accept the advice to establish a trust.

Some planners have advised those clients to use a “transfer on death” asset registration plan. The Illinois “Uniform TOD Security Registration Act” became effective on January 1, 1995. (815 ILCS 10/0.01) The Act allows people to register the title to both real and personal property in a form that gives them complete control during their lifetime and passing to their designated beneficiaries upon their deaths, without the need for probate. Future beneficiaries have no vested interest and the current owner or owners can change those beneficiaries at will. It sounds much like a trust, but there are significant differences and considerations.

While the Act gives broad authority for the “Registering Entity” to take such designations, it also allows each one to establish its own internal rules. Careful planners would have to advise clients to contact each potential registering entity to learn their specific rules and regulations.

Some brokers, mutual funds or stock transfer agents will not accept multiple beneficiaries or limit those designations. In theory if a person had five different beneficiaries in mind they might be required to open five separate accounts with each entity.

Another issue is that upon the death of the owner, the remainder beneficiaries become tenants in common which clients and their financial advisers may not know is different from other types of ownership.

Individual entity rules about how they deal with divorces can complicate things.

Even small details like dividends and capital gain distributions can be impacted by the specific rules of a registering entity.

Still, even with those limitations some clients might prefer or even be better served by this type of plan. For example, one interesting use was for a client with a more traditional trust estate plan where one beneficiary was put in and taken out frequently, based on the client’s on again off again relationship. Rather than do multiple amendments to the trust, the planner simply carved out that portion and set up a TOD account, making the changes to that beneficiary designation instead of amending the trust.

ATG Trust Company can help you with this when it is appropriate.

First, we can establish a single account, with ATG Trust as either the custodian or investment adviser, and you can craft a detailed and specific beneficiary designation that best suits your clients. The single account with us can hold virtually any securities your clients may have or acquire. Should they change their beneficiaries, they only need to come to one place to effect that. We will always guide them back to counsel for those needs.

This may not be much of a selling point for clients, but unlike their brokers and mutual funds upon their death we have the trust and estate experience to shepherd the beneficiaries through obtaining their shares. in tax and investment efficient ways. If you have ever tried to deal with multiple transfer agents on the death of a client you know how important that can be in saving time and money.

For more information about our custody, investment and trust services, please contact us at your convenience.

Could Taxpayer Have Headed Off Problem With IRS If He Had Known ATG Trust Company Acts As Trustee Of Real Estate IRAs?

The IRS recently ruled, in Private Letter Ruling 200647028, that the IRS would not grant an extension to accomplish an IRA rollover.

In 2005 funds were wired from the taxpayer’s IRA to another IRA custodian with the intent of setting up a “real estate IRA”. Representatives of the new IRA custodian had told the taxpayer that they would be able to set up a real estate IRA. However, in the month following the distribution from the original IRA, the new IRA custodian informed the taxpayer that they were not able to set up a real estate IRA for the taxpayer, and that the taxpayer had to seek another custodian. The taxpayer then contacted another IRA custodian who was ultimately able to set up a real estate IRA. The real estate IRA was established within 60 days following the distribution from the original IRA.

The taxpayer was not able to put the funds into the real estate IRA during the 60 day rollover period because they had already purchased the real property to be contributed to the “real estate IRA”, and the establishment of a corporation to hold the real property in the IRA was necessary. The corporation was formed within the 60 days but the taxpayer wasn’t informed of that fact until after the 60 day period. The taxpayer then made the request for an extension of the 60 day rollover period.

The IRS ruled that it is impermissible to take a distribution of money from an IRA, buy real estate and then contribute that real estate into the rollover real estate IRA. The IRS stated that with regard to an IRA rollover, you must contribute the same property into the new IRA as was distributed from the old IRA.

It seems clear, according to this PLR, that if cash is distributed from an IRA, then to effect a rollover, cash in the same amount must be redeposited and if property is distributed then the exact property must be redeposited.

ATG Trust can help you and your clients with your real estate IRA needs.

A Word From Robert Lopardo, President

2006 is almost a memory but there is still some time before the clock runs down to midnight on the 31st. Here are some observations and maybe a reminder or two:

Capital Gains:

We do not know what a new Congress will do, but these rates are at historic lows. Check the portfolio for any potential sale items and consider whether to lock in the 15% rate now in effect. This is an investment decision and not a tax play, but consider the tax effect of any investment decision.

Be careful buying mutual funds during this time period as many have significant gains to distribute before the end of the year.

Gifting:

For those in a position to make gifts to family or charity, consider the form of the gift. Giving appreciated assets can have a beneficial tax impact on the donor by shifting gains to the donee. In the case of a charity that means no tax due if the asset is sold by them. For others, it can be a bit of an incentive to hold on to the gift rather than turn it into cash and spend it.

Deductions:

Cash flow allowing, consider making an “extra” or early mortgage or equity line payment in December to get the interest deduction in 2006. If you have miscellaneous deductions that must qualify for the 2% of adjusted gross income floor, like legal or investment advisory fees, consider whether to pay those now or in January to bunch them into the

best tax year (but only if your adviser will not think less of you for holding off a couple of weeks!)

Looking ahead:

Interest rates are stabilized and still historically low. This applies to both the bond and loan markets. Is now the time to lock up any financing needed?

It is not likely that any significant tax benefits are on the horizon for business or the “wealthy”, except perhaps a new look at the Alternative Minimum Tax that has become more pervasive than its apparent intent.

The health care and energy industries may come under profit pressure if a more consumer oriented regulatory and tax environment appears.

Housing is feeling the effects of the general real estate slowdown, but consider this: In 1960 the U. S. population was about 177 million. Today it is 300 million. Net of deaths, births and immigration we add one new person every 14 seconds. In less than 20 years, some experts predict we will be at 400 million. All those people have to live somewhere, don’t they? And they will eat, drive cars, entertain themselves, take vacations, enjoy sports, go to school and more.

Short term things might look a little dreary but long term, time is on the side of growth in all manner of things.



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