

## **Crafting A Settlement for a Minor? Know ALL The Options.**

There are few things scarier to a parent than when a child is injured in an auto accident. When you add a financial award into the mix, it can be overwhelming for the family. As a Settlement Planner, I often come across attorneys with clients who are confused about which settlement options are available for minors, and how the options stack up against each other. Financial decisions made now can have a long-term impact on a minor, and in many instances, there are state-specific or even county-specific requirements that dictate which investment options are applicable.

### **Making the Recommendation**

The investment recommendation depends on three main factors: the age of the minor, the amount of the award, and future health considerations. A minor with relatively limited injuries or one receiving an award due to the injury or death of a loved one will have different needs than a catastrophically injured minor.

In most cases, the court will favor a conservative approach that protects the minor's assets until the age of majority. If the minor has experienced a more severe injury, additional decisions must be made regarding the needs for round-the-clock care, rehabilitation, medication, and/or home modifications. In those situations, a trust may be considered.

### **Common Settlement Investment Options**

Some of the most common options for managing the settlement funds are:

**Structured Settlement:** Usually arranged to begin when the minor reaches the age of majority, unless the proceeds are paid directly into a trust. Flexible payment stream design can include lump sums for future plans, such as college or the purchase of a home. Investment growth on the funds is 100% income tax-free, rate of return is guaranteed, and there are no ongoing fees or expenses.

**Minor's Trust:** Another reliable option if the minor needs access to funds prior to age of majority. Depending on state laws, final distribution can be delayed beyond age of majority to prevent the minor from receiving a large lump sum. Fees are associated with drafting the trust and paying a trustee, but are necessary protections to have in place for the minor. Trust interest income is taxable, but the trust can sometimes deduct certain distributions related to medical costs and the trustee fees.

**Combined Approach:** Structured settlement payments can be paid directly to a trust, or as an alternative, part of the settlement proceeds could be used to fund the trust, while the rest could be used to fund a structured settlement. Aside from the tax benefits, the advantage to this approach is the future protection it affords. The trust can be used to provide for the child's needs prior to the age of majority, while the structured portion can be utilized as an ongoing source of future income.

**Registry of the Court, Surrogate Bank Account, or Blocked Savings Account:** In some states, additional options exist when it comes to handling the proceeds for a minor's settlement. Money usually sits in an account that draws little interest and any growth on the funds is subject to taxes. Minor typically gains full access to the funds as long as s/he is not deemed to be incapacitated when s/he reaches the age of majority.

Ultimately, when handling a minor's settlement, all financial decisions must be made in the best interest of the minor. A careful, thorough review of all available options will help the family close the chapter on the accident and move forward with the knowledge that the minor will be taken care of financially for years to come.

By George Audi

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