§2241. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 268, §2 (NEW).]

1. Annuity issuer. "Annuity issuer" means an insurer that has issued an insurance contract used to fund periodic payments under a structured settlement.
[PL 1999, c. 268, §2 (NEW).]

2. Applicable law. "Applicable law" means:

A. Federal law; [PL 1999, c. 268, §2 (NEW).]

B. The laws of this State, including principles of equity applied in the courts of this State; and [PL 1999, c. 268, §2 (NEW).]

C. The laws of any other jurisdiction:

(1) That is the domicile of the payee or any other interested party;

(2) Under whose laws a structured settlement agreement was approved by a court or responsible administrative authority; or

(3) In whose courts a settled claim was pending when the parties entered into a structured settlement agreement. [PL 1999, c. 268, §2 (NEW).]
[PL 1999, c. 268, §2 (NEW).]

3. Dependents. "Dependents" means a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including alimony.
[PL 1999, c. 268, §2 (NEW).]

4. Discounted present value. "Discounted present value" means the fair present value of future payments as determined by discounting such payments to the present using the applicable federal rate for determining the present value of an annuity most recently published by the United States Internal Revenue Service.
[PL 1999, c. 268, §2 (NEW).]

5. Favorable tax determination. "Favorable tax determination," with respect to a proposed transfer of structured settlement payment rights, means any of the following authorities that definitively establishes that the federal income tax treatment of the structured settlement for the parties, other than the payee, to the structured settlement agreement and any qualified assignment agreement will not be affected by that transfer:

A. A provision of the United States Internal Revenue Code or a United States Treasury regulation adopted pursuant to the code; [PL 1999, c. 268, §2 (NEW).]

B. A revenue ruling or revenue procedure issued by the United States Internal Revenue Service; [PL 1999, c. 268, §2 (NEW).]

C. A private letter ruling by the United States Internal Revenue Service with respect to that transfer; or [PL 1999, c. 268, §2 (NEW).]

D. A decision by the United States Supreme Court or a decision of a lower federal court in which the United States Internal Revenue Service has acquiesced. [PL 1999, c. 268, §2 (NEW).]
[PL 1999, c. 268, §2 (NEW).]

6. Federal hardship standard. "Federal hardship standard" means a federal standard applicable to transfers of structured settlement payment rights based on findings of a court or responsible administrative authority regarding the payee's needs, as contained in the United States Internal Revenue Code or in a United States Treasury regulation adopted pursuant to the code.

[PL 1999, c. 268, §2 (NEW).]

7. Independent professional advice. "Independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional advisor:

A. Who is engaged by a payee to render advice concerning the legal, tax and financial implications of a transfer of structured settlement payment rights; [PL 1999, c. 268, §2 (NEW).]

B. Who is not in any manner affiliated with or compensated by the transferee of that transfer; and [PL 1999, c. 268, §2 (NEW).]

C. Whose compensation for rendering advice is not affected by whether a transfer occurs or does not occur. [PL 1999, c. 268, §2 (NEW).]

[PL 1999, c. 268, §2 (NEW).]

8. Interested parties. "Interested parties" means the payee, any beneficiary designated under the annuity contract to receive payments following the payee's death and any other party that has continuing rights or obligations under the contract. For purposes of this chapter, "interested parties" does not include the structured settlement obligor or the annuity issuer.
[PL 1999, c. 268, §2 (NEW).]

9. Payee. "Payee" means an individual who is receiving tax-free damage payments under a structured settlement and proposes to make a transfer of payment rights under that settlement.
[PL 1999, c. 268, §2 (NEW).]

10. Qualified assignment agreement. "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of Section 130 of the United States Internal Revenue Code, United States Code, Title 26.
[PL 1999, c. 268, §2 (NEW).]

11. Responsible administrative authority. "Responsible administrative authority" means any government authority vested by law with exclusive jurisdiction over the settled claim resolved by a structured settlement.
[PL 1999, c. 268, §2 (NEW).]

12. Settled claim. "Settled claim" means the original tort claim or workers' compensation claim resolved by a structured settlement.
[PL 1999, c. 268, §2 (NEW).]

13. Structured settlement. "Structured settlement" means an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim.
[PL 1999, c. 268, §2 (NEW).]

14. Structured settlement agreement. "Structured settlement agreement" means the agreement, judgment, stipulation or release embodying the terms of a structured settlement, including the rights of the payee to receive periodic payments.
[PL 1999, c. 268, §2 (NEW).]

15. Structured settlement obligor. "Structured settlement obligor" means the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement.
[PL 1999, c. 268, §2 (NEW).]

16. Structured settlement payment rights. "Structured settlement payment rights" means rights to receive periodic payments, including lump sum payments, under a structured settlement, whether from the settlement obligor or the annuity issuer, when:

A. The payee, structured settlement obligor, annuity issuer or any other interested party is domiciled in this State; [PL 1999, c. 268, §2 (NEW).]

B. The structured settlement agreement was approved by a court or responsible administrative authority in this State; or [PL 1999, c. 268, §2 (NEW).]

C. The settled claim was pending before the courts of this State when the parties entered into the structured settlement agreement. [PL 1999, c. 268, §2 (NEW).]

[PL 1999, c. 268, §2 (NEW).]

17. Terms of structured settlement. "Terms of a structured settlement" means the terms of a structured settlement agreement, an annuity contract, any qualified assignment agreement and any order or approval of any court or responsible administrative authority or other government authority authorizing or approving the structured settlement.
[PL 1999, c. 268, §2 (NEW).]

18. Transfer. "Transfer" means any sale, assignment, pledge, hypothecation or other form of alienation or encumbrance made by a payee for consideration.
[PL 1999, c. 268, §2 (NEW).]

19. Transfer agreement. "Transfer agreement" means the agreement providing for transfer of structured settlement payment rights from a payee to a transferee.
[PL 1999, c. 268, §2 (NEW).]

20. Transferee. "Transferee" means a person that becomes entitled to receive structured settlement payment rights as a result of a transfer agreement.
[PL 1999, c. 268, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 268, §2 (NEW).

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