

Qualified Settlement Fund (QSF) Benefits Q&A

What is a Qualified Settlement Fund (QSF)?

A Qualified Settlement Fund (QSF), established under Internal Revenue Code (IRC) §468B and Treasury Regulation §1.468B-1, is a court-approved settlement vehicle (trust) that allows defendants to fund a settlement while postponing allocation and distribution to plaintiffs.

It is more than a holding account. It is a flexible and powerful settlement-planning tool that defers taxation, preserves options, facilitates lien resolution, and supports fair and orderly distribution—particularly in complex or high-value litigation.

What are the benefits to plaintiffs of a QSF?

- A QSF is a strategic planning tool that provides tax, timing, and administrative advantages once liability is resolved. The QSF is treated as a separate legal entity, allowing it to hold assets and manage distributions under the control of a neutral party appointed by a court or regulatory agency.

How does a QSF help plaintiffs manage receipt of their funds?

- Settlement proceeds paid into a properly established QSF are not treated as constructively received by plaintiffs or their counsel until funds are actually distributed.

What is constructive receipt?

- Under Treas. Reg Sec. 1.451-2, income is constructively received if it is credited to a claimant's account or set apart for the claimant unless it is subject to substantial limitations or restrictions.

A QSF holds funds in trust for a claimant and is controlled by a court appointed trustee or QSF Administrator who exercises substantial control over the terms and timing of distributions.

Are there tax benefits to creating a QSF?

- Establishing a QSF allows plaintiffs to defer income recognition and related tax obligations, which can be particularly important where allocation, lien resolution, or planning decisions are still pending.

How does a QSF help plaintiffs plan their settlements?

- By separating settlement funding from distribution, a QSF provides plaintiffs with valuable time to evaluate financial, tax, and settlement-planning options. This includes considering structured settlements, coordinating with financial advisors, and aligning distributions with long-term financial needs.

What impact can a QSF have on a plaintiff's ability to opt for a structured settlement?

- When properly implemented, a QSF can preserve plaintiffs' ability to elect structured settlements after the case is resolved. This flexibility is often lost when funds are paid directly to plaintiffs or counsel without an interim settlement vehicle.

What impact does a QSF have on plaintiffs receiving means tested benefits?

- For plaintiffs who receive or may qualify for Supplemental Security Income (SSI), Medicaid, or other means-tested benefits, a QSF can delay income recognition and provide time to establish special needs trusts or other compliant planning structures, thereby reducing the risk of benefit disqualification.

How does a QSF help with lien resolution?

- Many settlements involve Medicare, Medicaid, ERISA, or private insurance liens that must be resolved before payment. A QSF allows plaintiffs and their counsel to negotiate and resolve these liens without the pressure of immediate distribution, reducing compliance risk and often improving plaintiffs' net recoveries.

How does a QSF help facilitate funds allocation to multiple plaintiffs?

- In cases involving multiple plaintiffs—such as mass torts, class actions, or MDLs—a QSF permits allocation methodologies to be finalized after funding. This allows matrices, injury tiers, and review processes to be applied consistently while removing the defendant from post-settlement allocation disputes.

How does a QSF assist with better decision-making during a claim's resolution?

- By eliminating artificial urgency at the end of litigation, a QSF allows plaintiffs to make informed, deliberate decisions about allocation, planning, and distribution. This often reduces post-settlement disputes and enhances overall settlement outcomes.