THE GP BRIEF · SEPTEMBER 2026 VOL. 1, NO. 2 KEEP UNCLE SAM OUT OF YOUR POCKETS

COMPOUNDING · YOUR CONTINGENCY FEE

Put the whole fee to work — not what's left after tax.

Take your contingency fee pre-tax and let the whole thing compound with no tax drag — like a 401(k) with no contribution cap. Not factoring, nothing sold or discounted, and settled law for three decades.

DEFER THE FEE	TAKE AS CASH	THE DIFFERENCE
$5.92M	**$2.29M**	**2.6×**
The whole pre-tax dollar, compounding untaxed until paid.	Roughly half lost to tax up front, then taxed every year.	On the same $1M fee over 20 years. Illustrative.

When a contingency case settles, the fee is normally paid in cash and taxed that year. In a high-tax state, roughly half is gone before you invest a dollar — and what survives then loses about 1.4% (140 bps) every year to taxes on dividends and rebalancing. A structured fee deferral, elected *before* the settlement is signed, sends the fee instead to a third-party assignment company that pays you on a schedule you design. The entire **pre-tax** amount goes to work and compounds untaxed until each payment arrives.

> *"Take the cash and you invest fifty cents — and it's taxed again every year. Defer, and the whole dollar compounds untaxed until you're paid."*

What it is — and what it isn't

It isn't factoring: nothing is sold, discounted, or accelerated — if anything, the opposite. And it isn't a loophole: it rests on *Childs v. Commissioner* (1994, aff'd 1996) and works because you never hold a present right to the cash. The one condition is timing — the deferral must be elected **before the case resolves**; once you can touch the money, the chance is gone. Design it with counsel: the IRS scrutinizes sloppy arrangements under §409A, but *Childs*-compliant deferrals are settled.

The point for your firm: it's the same architecture you use to protect clients, pointed at your own fee — uncapped, penalty-free, no RMDs, and yours on the schedule you set.

THE ECONOMICS · $1M · 20 YR

~50%	lost to tax up front — top bracket, high-tax state.
~140 bps	annual drag on what's left, from taxes on dividends and rebalancing.

DESIGN TIERS

FIXED	INDEXED	MARKET
$2.65M	$3.52M	$5.92M

ELECT BEFORE YOU SETTLE

The deferral must be written into the settlement or release, signed **before you have a right to the cash.** After that, it's gone.

Not factoring — nothing sold or discounted. Same carriers as a client structure, pointed at your fee.

Illustrative only; not an offer, quote, projection, or guarantee of any individual result. Structured attorney fee deferral defers ordinary income; the fee stays fully taxable and is reported (Form 1099-NEC) in the year payments are received. This is deferral, not the IRC §104(a)(2) exclusion, which applies to a claimant's qualified physical-injury recovery, not to attorney fees. The deferral must be elected before the attorney has a fixed, unconditional right to the fee. Authority: Childs v. Commissioner, 103 T.C. 634 (1994), aff'd, 89 F.3d 856 (11th Cir. 1996); see also Robinson (1965), Goldsmith (1978), PLR 200836019, Treas. Reg. §1.451-2(a), and §409A. The IRS has recently scrutinized certain structured legal-fee arrangements; structures should be reviewed by qualified tax counsel. Figures on a $1M fee over 20 years: fixed ($2.65M); indexed, caps and floors ($3.52M); open-architecture, market-linked 9.3% net ($5,921,111, from S&P 500 30-year CAGR 10.92% gross less ~1% fee); cash→equities $500K post-50% tax at 7.91% net ($2,289,820). Source: S&P Dow Jones Indices. Index-linked and market-based options are not guaranteed; guarantees rest on the issuer's claims-paying ability. The attorney is a general creditor of the assignment company, not the owner of the funding asset; deferred amounts are illiquid and cannot be accelerated, so platform durability over 18–20 years matters. Not a security. Not tax or legal advice; consult your own advisors.

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The fee you earned — every pre-tax dollar working.