SIRMIUM CAPITAL · FOR 9/11 FAMILIES

USVSST Distribution Planning Guide

How the distributions work, and what quietly costs families the most.

Two federal programs, different rules, and they affect each other in one direction only. Here is how a distribution is calculated, how the tax questions work, and where awards get depleted.

If your family holds a judgment against Iran, you are dealing with two federal programs at once, and almost nothing about them is intuitive. They have different laws behind them, different eligibility, different tax treatment, and they interact in one direction but not the other. This guide walks through how a distribution is actually calculated, what each program does to the other, how the tax questions generally work, and the decisions that quietly cost families the most.

Our family receives these payments too, so I read every notice the Fund puts out. Everything here is educational. It is not legal or tax advice, and the source for each point is named so you can check it yourself.

START HERE

The VCF and the USVSST Fund are not the same program

This is the single most common source of confusion, and getting it wrong leads to bad assumptions about taxes and about what you are owed.

- **The VCF** (September 11th Victim Compensation Fund) comes from the Air Transportation Safety and System Stabilization Act. It compensates people harmed by the attacks and by the cleanup.
- **The USVSST Fund** (U.S. Victims of State Sponsored Terrorism Fund) pays against a court judgment you already hold against a state sponsor of terrorism.

Receiving one tells you nothing about how the other is taxed, and whether you filed with the VCF does not affect your USVSST eligibility. An older provision did bar USVSST payments to people who had received a VCF award. That provision was struck by the 2019 Clarification Act.

ELIGIBILITY

USVSST runs on a final judgment, not on a claim form

Eligibility requires a qualifying final judgment: a U.S. district court judgment awarding compensatory damages, arising from acts of international terrorism, against a foreign state found not immune under the terrorism exception to the Foreign Sovereign Immunities Act.

- **Final means final.** An enforceable judgment on both liability and damages, with all appeals completed. A default judgment against a foreign state counts once service is properly completed.
- **There is a separate family-member category.** Immediate family who are not the victim, spouse, or dependent, such as non-dependent parents or siblings, are eligible if they hold qualifying judgments. They sit in a lower-capped group, which is covered below.

THE MATH

How a distribution is actually calculated

Three mechanisms decide what reaches you, and they apply in order.

- **1. The fund is split in half first.** Since 2019 the statute requires every distribution to be divided evenly between 9/11 claimants and non-9/11 claimants before anyone is paid. Because 9/11 claimants are the larger group, an even split means a smaller recovery per dollar of judgment.
- **2. Caps compress large judgments.** Gross compensatory damages above $20 million are treated as $20 million. A family group made up of the victim, spouse, and dependents is capped at $35 million. A group of 9/11 family members who are not the victim, spouse, or dependent sits under a lower $20 million cap.
- **3. Then payment is pro-rata.** Each side of the split is paid as a percentage of eligible damages, which is why two families with identical judgments can receive different amounts in different rounds.

> A payment percentage is simply the share of your eligible damages the Fund can pay in a given round. It is set by the money available and the claims in that round, so it moves round to round. Nobody can tell you next round's percentage in advance, and you should be careful of anyone who offers to.

THE 30 PERCENT RULE

A parity mechanism, not a cap on your award

This one is widely misread. If you have received, or are entitled to receive, 30 percent or more of the compensatory damages owed on your claim from a source other than the Fund, you receive nothing further from the Fund until other eligible claimants catch up to that same level. It is an accounting and parity mechanism. It does not cap or forfeit your award.

- Life insurance payments and Defense Base Act benefits must be disclosed on the application, but are expressly not treated as offsets.
- Before each distribution the Fund runs a federal debt check. A claimant flagged with a delinquent certified federal debt has the payment routed to Treasury. That is debt collection, not tax, and not the 30 percent rule.

THE ASYMMETRY

The two programs affect each other in one direction only

This catches families out, so it is worth stating twice, in both directions.

- **A VCF award does not reduce a USVSST payment.** It is not counted in the USVSST 30 percent test at all.
- **A USVSST payment does reduce a VCF award.** The VCF is required by law to offset compensation from other collateral sources relating to the attacks, and a USVSST payment is one of them.

> Same two programs, opposite answers depending on which direction you ask. If you are working through both, sequence and timing matter, and that is a conversation for your attorney.

TAXES

What is settled, and what depends on your own facts

Be careful here, because the internet flattens this into a single wrong sentence.

- **The VCF award principal is excluded from federal gross income.** The IRS states this directly. New York follows the federal exclusion, so the state answer lands in the same place.
- **A USVSST payment has no blanket exclusion.** Its treatment is character-dependent. The portion compensating physical injury or death is generally excludable; punitive damages, interest, and income-replacement portions are generally taxable; and investment income earned after you invest an award is taxable.
- The Act's own definition of compensatory damages expressly excludes pre-judgment and post-judgment interest and punitive damages, which is one statutory reason the flat "tax-free" label is wrong.

The Fund issues no Form 1099 and takes no position on your taxes. It routes every tax question to a tax professional, and so do we. If someone tells you the payment carries no tax question at all, they are saying something the Fund itself declines to say.

THE PITFALLS

Where awards quietly get depleted

- **Paying more than the legal fee cap.** On a 9/11-related claim no attorney may charge, receive, or collect more than 15 percent of an award payment made after November 21, 2019, and the Special Master will not approve more. The cap overrides any retainer that says otherwise. Charging above it is a federal crime carrying a fine, up to a year of imprisonment, or both. That is the statute, not an accusation about any firm. If your paperwork does not match the cap, ask.
- **Selling the judgment without understanding what you keep.** Accepting a Fund payment does not extinguish your judgment. By statute you keep your creditor rights to the unpaid balance, including interest and punitive damages, and the United States is subrogated only to the exact amount it actually paid you. A lump-sum offer is a decision to sell a future stream, and it belongs in front of your attorney before you sign.
- **Losing a means-tested benefit by accident.** SSDI and Medicare are earnings-record entitlements and are not resource-tested, so a lump sum does not by itself threaten them. SSI is different: a retained balance becomes a countable resource the first of the following month, against limits of $2,000 for an individual and $3,000 for an individual with a spouse. Medicaid generally follows the SSI determination but is state-specific. No federal rule names the VCF or the USVSST Fund as excluded, so plan the timing before the money lands, not after.
- **Treating one round as the whole answer.** Distributions arrive over years, and the percentage changes each time. A plan built around a single check tends to break on the next one.

MAKING IT LAST

Five questions worth answering before the money moves

- **What is the character of each dollar?** Split the award into its parts on paper before you invest any of it. That single exercise drives the tax answer and the account choice.
- **Who in the family is receiving, and under which cap?** Groups are capped differently, and family members outside the victim, spouse, and dependent group sit lower.
- **Does anyone in the household rely on a means-tested benefit?** If yes, sequence that before the deposit, with an elder-law or special-needs attorney.
- **What is the next liquidity need, and when?** Match the near-term money to safe, boring places, and let only the long-dated portion take market risk.
- **Who is on your side of the table?** An attorney for the judgment, a CPA for the tax character, and an adviser who is paid by you rather than by a product.

> You do not have to decide any of this quickly. The Fund pays in rounds over years, and no decision here rewards speed.

SOURCES

Every point above, and where to check it

- 34 U.S.C. § 20144 (the Act): the even split, the $20M and $35M caps, minimum payments and the 30 percent rule, the 15 percent fee cap and its criminal penalty, and retained creditor rights.
- USVSST Fund FAQs at usvsst.com: eligibility and final-judgment questions, offsets, the debt check, and the Fund's own position on taxes.
- IRS Publication 3920: the federal exclusion for VCF payments.
- IRC § 104(a)(2): the physical-injury exclusion that drives USVSST character.
- New York State Publication 59: New York's treatment of terrorist-attack relief.

- SSA Program Operations Manual (POMS) SI 00830.515, SI 01110.003, SI 01715.010: awards and settlements, SSI resource limits, and the Medicaid relationship.
- VCF policy, Calculation of Loss: collateral offsets, including the USVSST direction.