

The Plaintiff Recovery Trust

...recover more


Eastern Point
Trust Company®

DOUBLING RECOVERIES

Plaintiffs often keep less than half of what they should. You pay tax on winnings you keep and also on winnings paid to your lawyer – who then pays tax on the same money. The Plaintiff Recovery Trust avoids the Double Tax, often increasing net recoveries by 50%-150%.

The Plaintiff Double Tax

If you pay \$4 to make \$10, you should owe tax on \$6. But in many types of lawsuits, you can't deduct expenses – so you pay tax on all \$10.



The Cost of the Double Tax

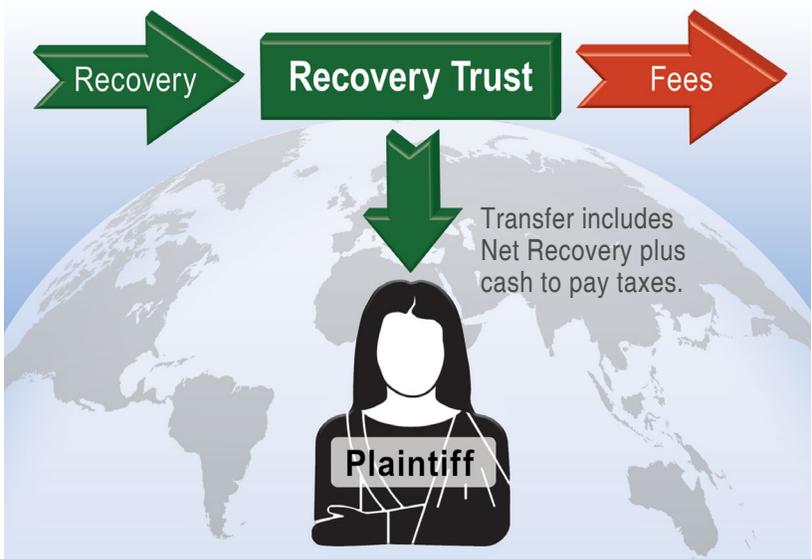
It costs half your net recovery if you pay a typical contingent fee of 40% and are subject to a typical tax rate of 40%. But not when you use the Recovery Trust.



Avoiding the Double Tax

To avoid the Double Tax you cannot "own" your lawsuit or directly receive the recovery. Instead, Eastern Point creates a specialized trust in your name and for your benefit.

The trust owns your lawsuit, receives your recovery, and pays your fees. You receive the net amount and need no deductions.



A TRUSTED SOLUTION

Courts regularly rely on Eastern Point. We administer settlement trusts for lawsuits against name-brand companies.

Settlements We Administer



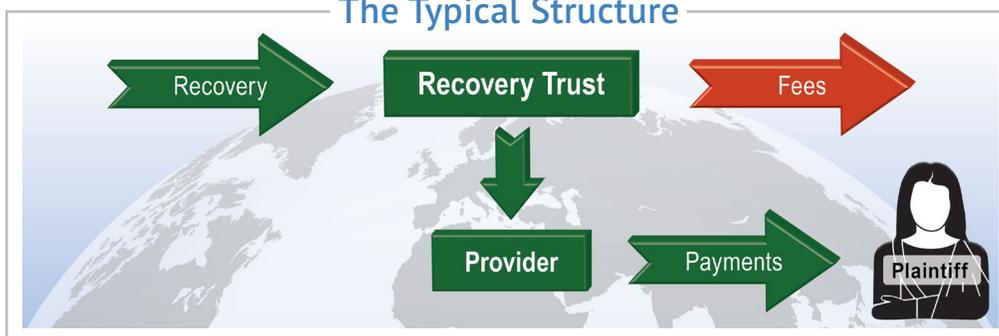
Escrow Trusts We Administer

- Settlement Protection Escrow Trusts
- Custom Solution Escrow Trusts
- Qualified Settlement Funds
- Confidential Escrow Services

STRUCTURED SETTLEMENTS

The Recovery Trust supports deferral arrangements of all kinds. Once created, the Trust distributes ownership of your future payments.

The Typical Structure



FACTS & COST

When You Need the Recovery Trust

Plaintiffs' need for the Recovery Trust depends entirely on their case. Use it if any part of your recovery will be subject to the Plaintiff Double Tax.

Example Claims That Need the Recovery Trust

- Punitive damages, penalties, & interest
- Alimony & child support
- Emotional distress without physical injury
- Fraud, negligence, breach of contract
- Interference with property/contract
- Defamation, libel, privacy violations
- Professional malpractice
- Opt-in class actions

Example Claims That Don't Need the Recovery Trust

- Physical injury without punitives/interest
- Claims brought as part of your business
- Some discrimination claims
- Some employment claims

PRT Cost is Paid by Your Tax Savings

The PRT Cost is 3% of your taxable damages, which is typically 20% of your tax savings. There is no cost to create a Recovery Trust. If there is never a recovery, there is never a cost.

We typically work with cases expecting \$100,000 or more of taxable damages, but can accept smaller cases with a minimum cost of \$5,000 per plaintiff.

Knowing the Recovery Trust Works

The Recovery Trust has been discussed in several journals, including [Bloomberg Tax](#). Tax counsel at law firm Faegre Drinker Biddle & Reath (1,300+ advisors) helped design it to address the Double Tax and to create creditor protections. Plaintiffs who wish can hire them to provide a formal written tax opinion.



Mechanics of the Recovery Trust

The Recovery Trust follows a commonly used trust arrangement. Your lawsuit claim is transferred to a newly created Recovery Trust, naming you as primary beneficiary. Your lawyer continues the lawsuit, now with you and the Recovery Trust as clients.

At settlement or award, funds are transferred to the Recovery Trust. It pays administrative fees, legal fees, and costs, then distributes the net proceeds to you. Because you don't pay any fees or costs, there's no need for deductions.

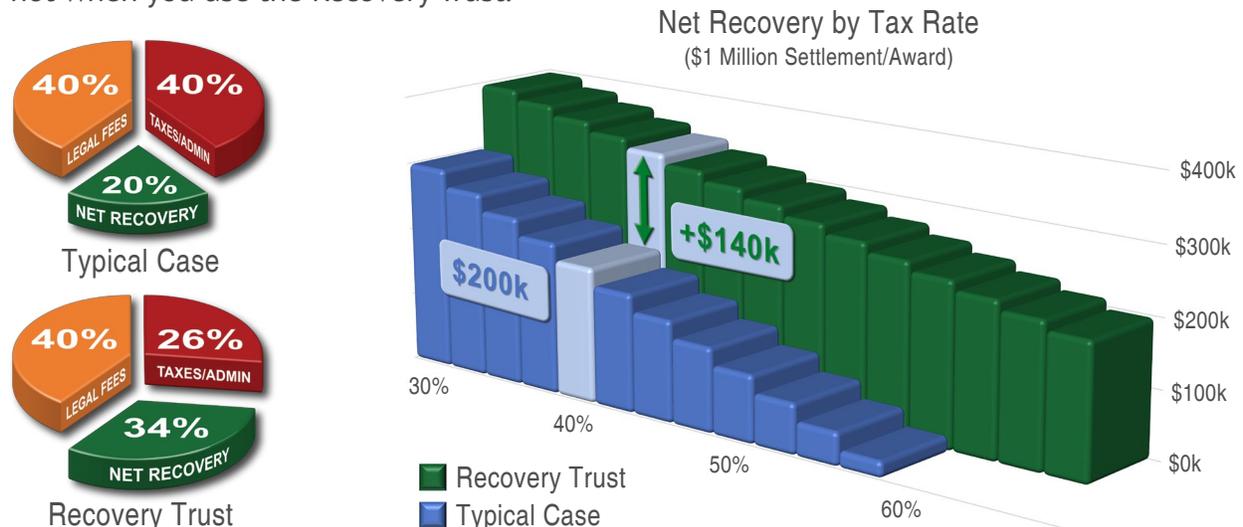
Enactment of the Double Tax

Congress passed the Plaintiff Double Tax in 2017 as part of a package to "reduce and simplify taxes." In order to give everyone a "standard deduction" of ~\$12,000, Congress eliminated deductions for many types of expenses (often called "miscellaneous itemized deductions"). The lost deductions include legal fees in many lawsuits brought by individuals as well as fees charged by investment advisors.

You can read about the tax law change in articles by [American Bar Association](#), [Bloomberg Tax](#), and [The Tax Adviser](#). It can have a devastating impact on taxable cases, even resulting in fees and taxes costing more than the ultimate settlement or award.

Tax Rate Impact on the Double Tax

The cost of the Double Tax increases with your state and federal tax rates. It cuts your net recovery by half if you pay a typical contingency fee (40%) and a typical tax rate (40%). But not when you use the Recovery Trust.



Failed Alternatives to Avoid the Double Tax

Since 2017 many have tried and failed to work around the Plaintiff Double Tax. When it became clear that none would work, Eastern Point created the Recovery Trust. Here are several approaches that **do not work**.

1

First, many plaintiffs and plaintiff lawyers don't attempt to avoid the Double Tax at all. Whether they don't know about it, or couldn't find a solution, it's a problem that many simply don't solve. For now, it looks like it's here to stay.

2

Second, some draft the plaintiff-lawyer fee agreement to transfer a portion of the lawsuit claim to the lawyer. If effective, the plaintiff would not "receive" that portion of the recovery and therefore have no need to deduct legal fees. Unfortunately, this strategy was largely nullified by the U.S. Supreme Court in *Commissioner v. Banks* (2005). The Court wrote that a plaintiff's income "includes the portion of the recovery paid to the attorney as a contingent fee."

3

Third, some have suggested that the relationship between plaintiff and lawyer can act as a "business partnership." The U.S. Supreme Court rejected this characterization in *Banks*, writing that, instead, the plaintiff-lawyer relationship "is a quintessential principal-agent relationship."

4

Finally, some have suggested that plaintiffs could benefit from IRS rulings for clients receiving free legal help. Plaintiffs represented by free legal clinics are not taxed on legal fees awarded by a court because those plaintiffs were never obligated to pay fees. However, for-profit law firms and their clients cannot take advantage of these rulings for many reasons, including the economic substance doctrine.



PROTECTIONS & DEFERRAL

The Recovery Trust follows a commonly used estate planning arrangement that provides other non-tax benefits. For example, it will largely protect your lawsuit from creditors. It is easily incorporated in your estate plans.

In addition, the Recovery Trust can often defer tax to the next year by delaying distribution, or defer tax for many years, by entering into a structured settlement.

QUESTIONS & ANSWERS

Can I use a Recovery Trust just before settlement or award?

Yes. However, to avoid the Double Tax you must transfer your claim before finalizing the settlement or award. Otherwise, the IRS might treat you as the “owner” of money received. To be conservative, it’s better to act early.

What do I do to use a Recovery Trust?

Contact us. We’ll discuss savings and next steps. In short, you’ll sign documents to effect three actions: (1) create a Recovery Trust in your name, (2) transfer your claim to your Recovery Trust, and (3) add the Recovery Trust as a co-client for your lawyer.

Phone: 1 (855) 378-3176

Email: RecoveryTrust@EasternPointServices.com

What if I end up not needing the Recovery Trust?

If you’re uncertain, we suggest that you use one. A Recovery Trust assures you of tax benefits if you do need them (e.g. because your recovery includes punitive damages). If you don’t need the benefits, you only pay a minimum cost. Think of the Recovery Trust as providing you with “tax insurance.”

How quickly will the Recovery Trust distribute money to me?

Typically, you’ll receive the net recovery within 15 days. However, in some cases it might benefit you to delay distribution to address outstanding issues, like liens.

Can I elect a “structured settlement” through the Recovery Trust?

Yes. The Recovery Trust can enter into any traditional or alternative plaintiff transactions.

Can I use the Recovery Trust if some of my recovery will be tax-free?

Yes. The lawsuit claim should “stay together.” The Recovery Trust will avoid the Double Tax on the taxable portion and not affect the rest. The PRT Cost doesn’t apply to the tax-free portion.

Eastern Point does not provide tax or legal advice. Counsel is available to provide a formal written tax opinion.

Fiduciary, escrow, ministerial, and trustee services are only offered and provided in the jurisdiction in which Eastern Point is licensed to provide such services. Forward Giving Inc., a 501(c)(3) charity, holds a contingent and residual beneficial interest in the proceeds of the Recovery Trust.

TESTIMONIALS

When You Need the Recovery Trust

Thanks to those we've worked with. The plaintiffs, lawyers, paralegals, settlement planners, case managers, and guardians ad litem. It's an honor to serve on your team.

Maria M., Plaintiff

"Using it was the best decision!"

Christine G., Plaintiff

"Everybody on the team was so interested in making this as easy as possible. I trust them."

Paula Elliot, Trial Lawyer

"Every trial lawyer should know about this. It dramatically reduces client taxes."



Jeffrey Travers, Trial Lawyer

"This saved my client millions. I'd absolutely recommend that plaintiff lawyers consider it. Using the trust was easy and the team was incredibly helpful."



Andrew Heilala, Trial Lawyer

"A fantastic solution in taxable cases. We'll be using this again and again. A highly professional solution and well-designed for trial lawyers."



Lauren Grantham, Paralegal

"This makes a huge difference to the client. It also helped them trust us and make them more confident. Finding a way to avoid this double tax is pretty much a must-have."



Rebekah Miller, President, American Association of Settlement Consultants

"It was a great vehicle. It increased my clients' monies by 140% of what they would have had."



Joe Di Gangi, Past President, Society of Settlement Planners

"The only effective solution I know to the plaintiff double tax. Efficient and professional!"



Jeff Kemp, Guardian Ad Litem

"Using the Recovery Trust was a no-brainer. It doubled my ward's recovery! The Eastern Point team was professional and thorough. Without hesitation I strongly recommend the Recovery Trust and the team behind it."



Brandi Valdes, Case Manager

"A great solution in taxable cases. The Recovery Trust provided our clients with significant tax savings. Eastern Point was thorough and made the process easy."



Disclosure

Eastern Point Trust Company offers a variety of escrow, ministerial services, trust administration services, self-help support software, attorney support software, and document management systems, some of which offer companion self-service, automated software solutions. Fiduciary, escrow, ministerial, and trustee services are only offered and performed by Eastern Point Trust Company in such jurisdictions in which Eastern Point Trust Company is licensed to provide such services and then pursuant solely to the terms of the associated governing documents. Eastern Point Trust Company may act in a ministerial non-fiduciary capacity as escrow agent when applicable. As required by federal law related to “domestic trusts,” fiduciary, escrow, and ministerial services related to “substantial decisions” shall be required to be independently performed by one or more co-trustees or affiliated or non-affiliated parties who are “United States persons.” Fees charged are solely for ministerial services, trustee services, or licensing fees to access the self-help system, and fees are not drafting or document preparation fees. The content herein is provided as, and limited to, information and descriptions of the features and benefits of Eastern Point Trust Company’s services, products, and requirements when applicable. This website is for informational purposes only and is not an offer to sell, a solicitation, or an offer to buy any security. Nor is the content here an offer to provide legal, fiduciary, escrow, ministerial, or trust services. The information herein is not intended to be legal or investment advisory advice and should not be constructed as legal or investment advisory advice. Eastern Point Trust Company and its affiliated parties are not law firms, are not a lawyer referral service, and do not act as your attorney or investment advisor. Eastern Point Trust Company is not a substitute for the advice of an attorney or an investment advisor; as such, Eastern Point Trust Company does not provide any advice, explanation, opinion, or recommendation about possible legal rights, express any legal guidance on the matters contained herein, nor provide investment advice or management. As appropriate, seek the advice of an attorney if you have questions concerning legal questions, remedies, defenses, or options; or seek the advice of a licensed investment advisor related to trust holding(s) or investments. Eastern Point Trust Company and its affiliated companies are not broker-dealers and only forward your instructions to executing custodians/broker-dealers. Your accessing and utilizing this website constitutes your agreement to the **Terms and Conditions** shown herein. Please review the **Terms and Conditions** carefully, as they contain important information and disclosures and are legally binding. The terms of the applicable agreement, and the **Terms and Conditions** on the www.easternpointtrust.com website shall supersede and have precedent over any information provided for herein. You are solely responsible for protecting the privacy and security of your electronic communications (sent or received). Additionally, it is your duty to secure your systems, networks, devices, browsers, and communications systems and devices with anti-virus and malware protection and anti-breach security software. Any loss resulting from a breach of your systems, networks, devices, browsers, or communications systems and devices is solely your liability.