PRT

Plaintiff Recovery Trust (PRT) Guide

Understand the basics of plaintiff taxation — and how to maximize the recovery using a PRT.

Justice includes protecting the recovery.

PRT.tax   +1 (855) 292-2271   recoverytrust@easternpointservices.com

Introduction

This guide explains the Plaintiff Recovery Trust (PRT) — what it is, how it works, and why it matters for anyone involved in a taxable litigation recovery.

The PRT's trust documents are detailed and technical — that precision is what allows the PRT to reduce taxes on a litigation recovery. Where this guide and the trust document language differ, the trust terms always control.

What's Inside

01 The Problem: Plaintiff Taxation

Introduction

The way plaintiff recoveries are taxed is widely misunderstood, even by experienced professionals. When a plaintiff prevails in a taxable case — any taxable case — federal tax law treats the entire recovery as taxable income, including the portion owed to the attorney as fees and costs. In other words, the plaintiff is taxed on money they never receive. This is the result of *Commissioner v. Banks*, the U.S. Supreme Court case confirming that plaintiffs are taxed on the attorney-fee portion of a taxable recovery.

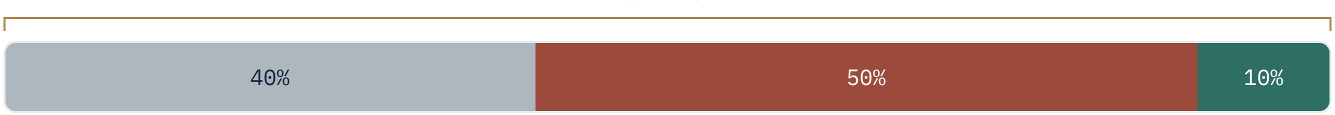
Even though attorney fees and costs (together, “fees”) are includible as income, in many taxable cases they are not deductible — despite being a genuine expense, and despite the attorney being taxed on the same amount. The attorney-fee portion of a taxable recovery is, in effect, taxed twice: once to the plaintiff and once to the attorney. This is the **attorney fee double tax**.

The nondeducibility of attorney fees and costs results from how the tax code treats nonbusiness litigation expenses. The Tax Cuts and Jobs Act of 2017, made permanent by the One Big Beautiful Bill Act of 2025, eliminated the so-called “miscellaneous itemized deduction” many plaintiffs once used to offset attorney fees.

> The combined effect of attorney fees and taxes leaves a plaintiff with only a small fraction of the amount won. In fact, in many attorney fee double tax situations, **both the government and the lawyers end up with more than the plaintiff**. This is especially true in high-tax jurisdictions (e.g., California or New York). Recovery preservation is about closing that gap, and the PRT is designed to address this.

The plaintiff is taxed on money they never receive.

TAXED ON THE FULL $5,000,000 TAXABLE RECOVERY



Attorney fee — $2,000,000 the plaintiff never receives, taxed anyway

Tax on Recoveries — $2,500,000

Net to plaintiff — $500,000

Hypothetical: $5,000,000 taxable recovery, 40% contingent attorney fee, 50% combined federal and state tax rate. Section 02 works the same figures through a PRT.

Where the Attorney Fee Double Tax Applies

The attorney fee double tax applies only to a taxable recovery without an above-the-line ("ATL") deduction for attorney fees. An ATL deduction is available only where a specific tax rule permits it.

Many recoveries include both taxable and tax-free components. A recovery for physical injuries, for example, is generally tax-free — but the same case may include punitive damages or interest, which are taxable. Knowing which parts of a recovery are taxable is an important first step.

Examples of Taxable Claims Subject to the Attorney Fee Double Tax

- Punitive damages, penalties, and interest (whether or not related to a taxable claim)
- Emotional distress not tied to a physical injury
- Certain whistleblower and non-discrimination employment claims (e.g., breach of contract)
- Defamation, libel, and privacy violations
- Fraud, negligence, and breach of contract
- Interference with property or contract
- Professional malpractice
- Opt-in class actions

Examples of Non-Taxable and Taxable Claims NOT Subject to the Attorney Fee Double Tax

- Physical-injury recoveries without punitive damages or interest
- Claims brought as part of a trade or business
- Certain employment discrimination claims involving discrimination or whistleblower matters

Determining which parts of a recovery are taxable is not always straightforward. As a general rule, this turns on the "origin of the claim": the attorney's pleadings and the settlement documents provide important guidance, and how a recovery is described in those documents can affect the tax outcome. For an overview of how federal income tax applies to litigation settlement and judgement proceeds, review this article. Working with an attorney and knowledgeable tax professionals to develop the complaint and settlement documents with tax outcomes in mind is important — whether or not a PRT is used.

02 A Solution: The Plaintiff Recovery Trust

What It Is

A Plaintiff Recovery Trust (PRT) is a specially designed trust that addresses the attorney fee double tax. Before a case finally resolves, the plaintiff's legal claim is contributed to the trust. Because the PRT — not the plaintiff — receives the recovery and then distributes a portion to the plaintiff, the plaintiff is taxed only on the amount actually received, rather than also on the attorney-fee portion.

The PRT applies long-established charitable trust and estate-planning principles, adapted for the litigation context.

Who Benefits from the PRT

Each PRT has two beneficiaries. The plaintiff(s) is the **primary beneficiary** — the trust operates primarily for the plaintiff's benefit, and the plaintiff (and anyone else they designate) receives the substantial majority of any recovery. The trust also has a **charitable beneficiary**, Forward Giving, Inc., a 501(c)(3) public charity. The charitable component is a required part of the structure for tax purposes.

There is No Upfront Cost to Setting Up a PRT

There is no upfront cost to set up a PRT, and nothing is owed if there is no recovery. Trustee and administrative fees/costs are paid from the trust, as a required charitable contribution to Forward Giving, Inc., only when a recovery is received. When a recovery is taxable and the attorney fee portion is not deductible, the charitable contribution is 3% of that taxable portion (subject to a $5,000-per-plaintiff minimum) – paid directly by the trust. As a rule of thumb, the charitable contribution represents roughly 15% of the plaintiff's estimated tax savings, meaning **the plaintiff keeps approximately 85% of the benefit the PRT creates**.

When a recovery is tax-free, or taxable and eligible for an ATL deduction, the only cost is the $5,000-per-plaintiff minimum.

> In short: **no upfront cost, nothing owed if there is no recovery, and the plaintiff keeps most of the tax benefit the PRT creates.**

More Than a Tax Benefit

Because the PRT is legally distinct from the plaintiff, it can offer protections a directly held claim cannot — including creditor protection, charitable giving, and claim management.

A Trusted Solution

The Plaintiff Recovery Trust is a well-established solution. A national law firm has issued a formal tax opinion addressing the PRT, and the structure has been discussed in several respected tax publications, including Forbes and Bloomberg Tax.

To date, over 100 PRTs have been established that have received recoveries. Through 2025, PRT recoveries exceeded $500 million — most of it taxable and subject to the attorney fee double tax — with estimated tax savings approaching $100 million.

100+	$500M+	~$100M
PRTs established	Recoveries through 2025	Estimated tax savings

A Simple Example

The figures below are hypothetical and for illustration only. Actual results depend on the recovery amount, tax rate, fee structure, and other case-specific facts. Use the Recovery Tax Estimate at PRT.tax to model a personalized estimate.

WITHOUT A PRT

$500,000

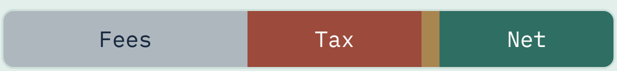
net to the plaintiff — 10% of the recovery

WITH A PRT

+$925,000

$1,425,000

net to the plaintiff — 28.5% of the recovery



Attorney fee · Tax on Recoveries · PRT Charitable Contribution · Net to plaintiff

On a $5,000,000 recovery	Without a PRT	With a PRT
Gross recovery	$5,000,000	$5,000,000
Attorney fee (40%)	($2,000,000)	($2,000,000)
PRT charitable contribution (3%)	–	($150,000)
Taxable income	$5,000,000	$2,850,000
Tax (50% combined rate)	($2,500,000)	($1,425,000)
Net to plaintiff	**$500,000**	**$1,425,000**

03 How It Works

TIMING IS EVERYTHING

The claim must be placed in the trust **before the case is resolved** — while the outcome is still contingent and doubtful. The earlier the plaintiff and their attorney begin the conversation, the better.

The Steps

1 **Intake**

The plaintiff and their attorney meet with the PRT team to confirm the potential benefit and answer any questions. There is no cost or obligation at this stage.

2 **PRT Formation**

The PRT is formed and the claim is contributed to the trust, with the plaintiff and their attorney signing the PRT creation documents. This happens while the case outcome is still uncertain — "contingent and doubtful" — and there is no upfront cost.

3 **Litigation**

The attorney continues prosecuting the case under the same fee agreement and terms, with the trust joining as a co-client. Case strategy does not change.

4 **Case Resolution & Recovery**

As the case resolves, the PRT team works with the attorney to ensure the settlement agreement includes the appropriate PRT language. The defendant pays the PRT, and a distribution schedule is prepared based on the settlement agreement or litigation result.

5 **Distribution**

Following the approved distribution schedule, attorney fees, liens, and costs are paid, and the required charitable contribution is paid on the taxable portion that has no ATL deduction (the attorney fee double tax portion). The remainder is distributed to the plaintiff, who is taxed only on the amount actually received and receives a K-1 reporting the distribution.

6

Completion

Once the PRT has distributed all funds, it has served its purpose and comes to a close (unless the plaintiff chooses to continue it). If a recovery is paid over several years, the PRT remains in place until the final distribution.

How the Recovery Is Routed

To avoid the attorney fee double tax, the plaintiff cannot "own" the claim or directly receive the recovery. Because the trust — not the plaintiff — owns the claim and receives the recovery, the plaintiff is taxed only on the net amount distributed to them.

Defendant
Pays the full recovery

→

Plaintiff Recovery Trust
Owns the claim & receives the recovery

↓

THE TRUST PAYS, THEN DISTRIBUTES

Attorney Fees & Costs
Paid directly by the trust

Charitable Contribution
3% of the double-taxed portion

The Plaintiff
Net recovery — taxed only on this

04 Frequently Asked Questions

GETTING STARTED & TIMING

When should a PRT be established?

As early as possible. A PRT must be in place before the case is resolved, while the outcome is still contingent and doubtful — meaning the parties have not yet agreed to any binding settlement terms (verbally, by email, or in a binding mediation term sheet). The sooner the PRT is in place, the stronger the tax position: the case then resolves without the plaintiff ever having direct access to the recovery, avoiding what's known as constructive receipt, which would eliminate the PRT's tax benefit. Waiting until a settlement or judgment significantly increases that risk and should be avoided.

Can a PRT be used if part of the recovery is tax-free?

Yes. The portion of your claims that are tax-free (or for which an ATL deduction is available) stays with the portion of your claims that is subject to the plaintiff double tax. The PRT avoids the plaintiff double tax but does not affect the rest of your recovery. This is especially helpful when it isn't yet clear which parts of your recovery will be taxable.

What if the PRT ends up not being needed — for example, because the recovery turns out to be entirely tax-free?

When it's uncertain whether a recovery will be subject to the attorney fee double tax, using a PRT is still worth considering — it secures the tax benefit if the double tax ends up applying to some or all of the eventual recovery (for example, if a compensatory recovery turns out to include punitive damages). If the double tax never applies, the plaintiff pays only the $5,000 per-plaintiff minimum. In this way, the PRT works like tax insurance.

What if the plaintiff changes their mind?

The PRT is irrevocable — it has to be, to deliver the tax benefit. Once a claim is contributed, it cannot be undone. This does not work against the plaintiff: they still receive the same recovery they would have received without the PRT, less the charitable contribution, but with substantially less tax if the recovery is subject to the attorney fee double tax. If the recovery turns out to be entirely tax-free or ATL-eligible, the plaintiff receives the full benefit they would have had without the PRT, less only the $5,000 minimum.

CONTROL & HOW IT WORKS

What must happen for the recovery to avoid the attorney fee double tax?

The trust must remain genuinely independent from the plaintiff and follow certain procedures. That independence comes from having a trustee independent of the plaintiff and a second beneficiary (the charity). Without that independence, the plaintiff would be taxed on the entire recovery and could not deduct the attorney fees — meaning the double tax would still apply.

Who is the PRT trustee?

Forward Giving, Inc. (FGI), a 501(c)(3) charity, is the PRT trustee. As trustee, FGI is a fiduciary (i.e., legally obligated to act in the beneficiaries best interests) for both beneficiaries — the plaintiff (or whomever they designate) as primary beneficiary, and itself as the charitable beneficiary. That independence is what allows the trust to deliver its tax benefit.

Does the plaintiff lose control of the case?

No. The attorney continues to represent the plaintiff and prosecute the case as before, except that the PRT is now a co-client. Case strategy does not change.

What is the legal basis for the PRT structure?

The PRT applies charitable trust and estate-planning principles that have been part of U.S. trust and tax law for decades — it is not a new concept, but an established framework adapted for the litigation context. A nationally recognized law firm has issued a formal tax opinion addressing PRT tax treatment, and the underlying problem it solves — the attorney fee double tax — has drawn growing attention from respected outlets, including Bloomberg Tax, Tax Notes Federal, Finance Digest, and Forbes, especially since the One Big Beautiful Bill Act permanently eliminated plaintiffs' ability to deduct attorney fees in 2025. PRTs have also been used in over 100 cases, including one involving a nine-figure punitive damages verdict that was affirmed on appeal (click here to view more information on this case). As with any sophisticated tax position, no IRS ruling has addressed the PRT by name, so it remains subject to IRS review — which is why a formal tax opinion is recommended, particularly for larger cases.

Can a PRT operate alongside a QSF or using a structured settlement?

Yes. A qualified settlement fund (QSF) can provide additional time to finalize how a recovery is distributed, and a structured settlement allows further deferral of a recovery for an additional potential tax benefit. Both can be used in conjunction with a PRT.

Can the attorney elect a structured fee?

Yes. The PRT does not prohibit an attorney from entering into traditional or alternative fee arrangements, including a structured attorney fee.

COST, RECOVERY & DISTRIBUTIONS

What if there is no recovery?

Then nothing changes for the plaintiff. If the case does not produce a recovery, nothing is owed to the trust — the same outcome as if the claim had never been contributed. The PRT adds no cost in that situation.

If there is a recovery, when is it distributed?

As soon as practical after the trust receives and approves the recovery. In general, and subject to applicable banking rules and regulations, funds paid by wire from the defendant or its insurer are available within a day or two; payment by check is subject to a 10-business-day hold. For tax reasons, the distribution is made in the same year the PRT receives the recovery. A delayed distribution can also be requested — for example, to protect proceeds from creditors — though delays may create additional taxes that reduce the amount received.

What happens with trust income that isn't from a legal claim?

If the trust holds assets other than the contributed legal claim, income from those assets is generally split 90% to the plaintiff and 10% to Forward Giving, Inc., similar to other charitable trusts. Unless property beyond the legal claim is contributed, it is unlikely the trust will have any such income.

TAXES & REPORTING

Is there a tax deduction for contributing a claim to a PRT?

No. There is no charitable deduction for contributing a claim to a PRT. The tax benefit comes from how the income is recognized — the plaintiff is taxed only on what is actually received, not on the attorney-fee portion.

How is the income reported?

PRT income is reported on IRS Form K-1 (rather than the Form 1099 many plaintiffs are used to). A K-1 works much like a 1099 — it reports the income that is taxable to the recipient and provides other relevant information for their return.

Is a tax opinion available?

PRT.tax and its service providers — including Eastern Point — do not provide legal or tax advice; we recommend working with a qualified professional advisor to decide whether a PRT is a fit. If you're interested in a formal written tax opinion, we're happy to connect you with a tax professional who can provide one at a reduced fee, assuming standard facts and circumstances. A tax opinion is optional, but it can be helpful in protecting against IRS underpayment penalties, especially in larger cases.

Have another question? We're glad to help — just ask.

05 Where to Learn More

Visit PRT.tax

Estimate the benefit with the Recovery Tax Estimate, explore educational resources, and see whether a case may qualify.

Talk With an Expert

The plaintiff and their attorney are always welcome to reach out with questions.

Call +1(855) 292-2271
Email recoverytrust@easternpointservices.com

Justice includes protecting the recovery.

PRT.TAX · ADMINISTERED BY EASTERN POINT TRUST COMPANY

06 Testimonials

"Using it was the best decision!"

MARIA M. — PLAINTIFF

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

CHRISTINE G. — PLAINTIFF

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

PAULA ELLIOT — 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."

JEFFREY TRAVERS — 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."

ANDREW HEILALA — TRIAL LAWYER

"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."

LAUREN GRANTHAM — PARALEGAL

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

REBEKAH MILLER — PRESIDENT, AMERICAN ASSOCIATION OF SETTLEMENT CONSULTANTS

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

JOE DI GANGI — PAST PRESIDENT, SOCIETY OF SETTLEMENT PLANNERS

"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."

JEFF KEMP — GUARDIAN AD LITEM

"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."

BRANDI VALDES — CASE MANAGER

Eastern Point Trust Company offers a variety of escrow services, ministerial services, trust administration services, self-help support software; some of which offer companion self-service and 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-is, and is limited to information and descriptions of the features and benefits of Eastern Point Trust Company's services, products, and requirements when applicable. This document is for informational purposes only and is not an offer to sell, an offer to buy, or a solicitation for any security. The content herein is not an offer to provide legal, fiduciary, escrow, ministerial, or trust services. The information herein is not intended to be legal or investment advice and should not be construed as legal or investment 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; 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 document constitutes your agreement to the Terms and Conditions (a.k.a. Terms of Use) and Privacy Policy shown herein. Please review the Terms and Conditions (a.k.a. Terms of Use) and Privacy Policy carefully, as they contain important information and disclosures and are legally binding. The terms of the applicable agreement, and the Terms and Conditions (a.k.a. Terms of Use) and Privacy Policy on the 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.

Educational Disclosure. This material is provided by Eastern Point Trust Company solely as educational content. It is not legal, investment, or tax advice. Always seek the advice of competent legal, investment, or tax advisors to review your specific facts and circumstances.

Any opinions, views, findings, conclusions, or recommendations expressed in the content contained herein are those of the author(s) and do not necessarily reflect the views of the Eastern Point Trust Company, its Affiliates, Third Parties, or clients. The mere appearance of content herein does not constitute an endorsement by Eastern Point Trust Company ("EPTC"), its Affiliates, Third Parties, or clients. The underlying author's opinions are based upon information they consider reliable, but neither EPTC nor its Affiliates nor its Third Parties nor the company with which such author(s) are affiliated warrant completeness, accuracy, or disclosure of opposing interpretations.

EPTC and its Affiliates disclaim all liability to any party for any direct, indirect, implied, special, incidental, or other consequential damages arising directly or indirectly from any use or reliance on the content herein, which is expressly provided as is, without warranties. Finally, these educational materials are provided as-is. All warranties, express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, are expressly disclaimed.

Third-party logos and trademarks shown herein are for nominative fair use purposes only and solely for identification or reference. This site is neither endorsed by, sponsored by, nor affiliated with the respective entities. The logos are registered trademarks of their respective companies.

PRT.tax is administered by Eastern Point Trust Company.

PRT.tax • easternpointtrust.com
+1 (855) 292-2271 • recoverytrust@easternpointservices.com