



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%.

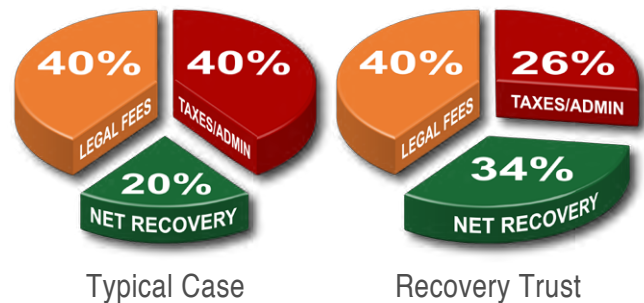
The Plaintiff Double Tax

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

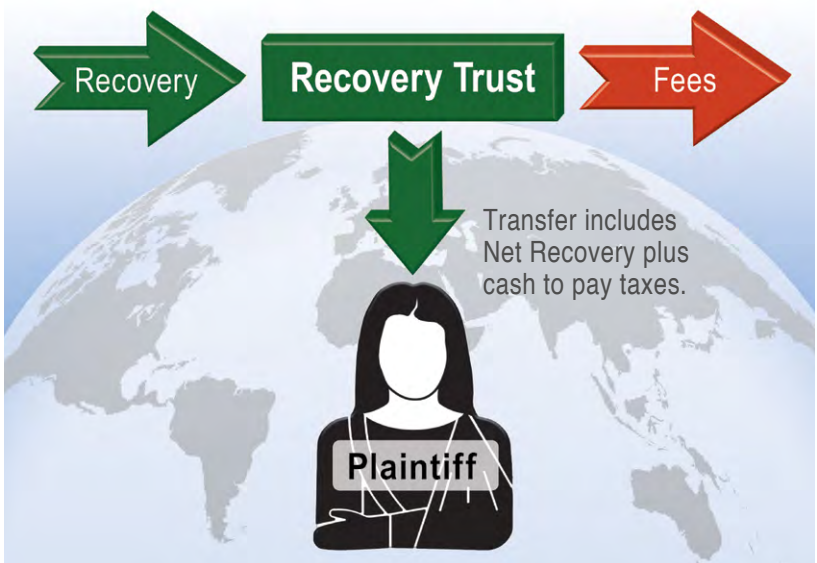
It costs half your net recovery if you pay a typical contingent fee of 40% and are subject to a typical tax rate of 40%. But not when you use the Recovery Trust.



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



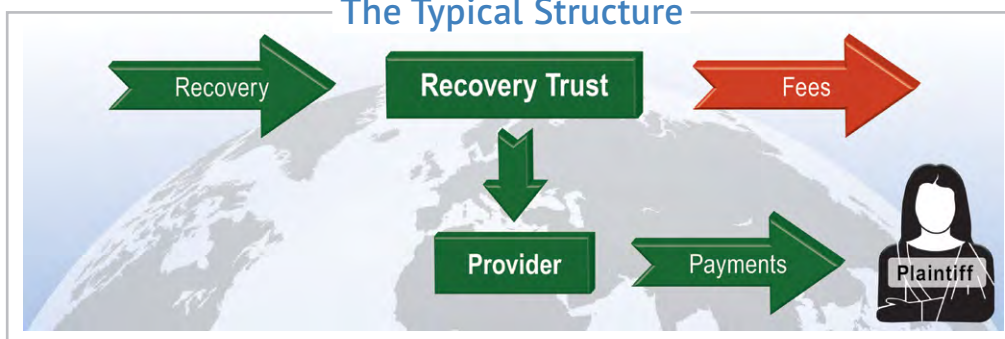
Escrow Trusts We Administer

- 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 & FEES

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

Our Fees Are Paid by Your Tax Savings

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

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

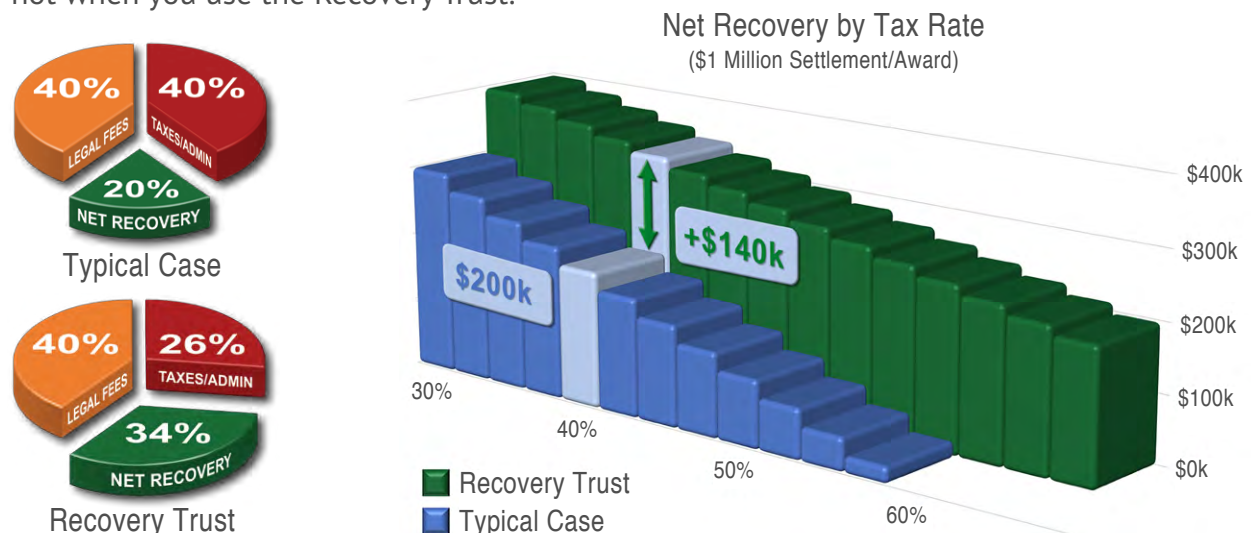
Enactment of the Double Tax

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 fee. 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. Our fees don’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 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

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