

First and Third Party Special Needs Trusts – What is the Difference?

	First Party (or self-settled) Trusts	Third Party Trusts
Who executes the trust documents?	<ul style="list-style-type: none"> The individual with the disability or their legal guardian must sign Power of Attorney only if setting up a trust is specifically referenced and authorized in the executed durable power of attorney (DPOA) document 	The third party settlor (sometimes called donor), typically family but may be friends or other parties
Whose funds are used to set up the trust?	The funds belong to or are in the name of individual with a disability	Family or other third party funds
Medicaid Payback at Death of Life Beneficiary	Yes	No
Type of Trust	Irrevocable	<ul style="list-style-type: none"> Revocable unless waived by settlor At settlor's death, the trust becomes irrevocable
Tax Status	Trust is its own taxable entity and MSNT works with tax preparation firm to file taxes	<ul style="list-style-type: none"> If the trust is revocable, the settlor is responsible for trust tax filing and taxes owed MSNT assumes responsibility for tax filing when the trust is irrevocable by waiver or if donor is deceased
When is trust advisable to protect Medicaid and other public benefits?	<ul style="list-style-type: none"> Retroactive Social Security payment Inheritance or life insurance payout Personal injury settlement Other legal settlement 	<ul style="list-style-type: none"> Estate planning Fund raising on behalf of an individual with a disability
Life Beneficiary	Individual with a disability	Individual with a disability
Master Trust Documents	http://www.midwestspecialneedstrust.org/TrustDocs/pdf/FirstPartyTrustAgreement.pdf	http://www.midwestspecialneedstrust.org/TrustDocs/pdf/ThirdPartyTrustAgreement.pdf