

Special Disability Trusts



What is a Special Disability Trust?

A Special Disability Trust is a trust established solely for succession planning by parents and immediate family members for the future care and accommodation needs of a person with a severe disability.

We recommend that you consult with a financial advisor and/or a solicitor for advice before establishing a Special Disability Trust.

Before you contribute to a Special Disability Trust, you should carefully consider the effect it may have on your financial security. You should also check the effect on any social security entitlements.

A separate factsheet explains the social security treatment of making a gift. For more information, see the *Gifting* factsheet.

Assistance, in the form of counselling and mediation services, is available for families who may be at risk of conflict through the process of establishing or contributing to such a trust.

What are the benefits of a Special Disability Trust?

1. A gifting concession of up to \$500 000 combined is available for eligible family members of the principal beneficiary.
2. An Assets Test assessment exemption of up to \$532 000 (indexed each year) is available for the principal beneficiary.

What are the characteristics of a Special Disability Trust?

A Special Disability Trust must meet the following requirements:

- be “protective” in nature
- have only one principal beneficiary (that is the person for whom the trust is established)
- the principal beneficiary must meet the eligibility criteria
- provide only for the accommodation and care needs of the principal beneficiary
- have a trust deed that contains the clauses as set out in the model trust deed
- have an independent trustee, or alternatively have more than one trustee
- comply with the investment restrictions
- provide annual financial statements, **and**
- conduct independent audits when required.

Who can be the principal beneficiary?

To be eligible to be a principal beneficiary, the disabled person must meet the definition of severe disability. The definition of severe disability is:

- (a)** a person who has reached 16 years of age:
- whose level of impairment would qualify the person for Disability Support Pension or who is already receiving a DVA Invalidity Service Pension or DVA Invalidity Income Support Supplement, **and**
 - who has a disability that would, if the person had a sole carer, qualify the carer for Carer Payment or Carer Allowance, **and**
 - who has a disability as a result of which he or she is not working and who has no likelihood of working for a wage that is at or above the relevant minimum wage.

- (b) a person who has reached 16 years of age:
- whose level of impairment would qualify the person for Disability Support Pension or be receiving a DVA Invalidation Service Pension or DVA Invalidation Income Support Supplement, **and**
 - who is living in an institution, hostel or group home in which care is provided for people with disabilities and for which funding is provided under an agreement between the Commonwealth, states and territories, **and**
 - who has a disability as a result of which he or she is not working and who has no likelihood of working for a wage that is at or above the relevant minimum wage.
- (c) a child under 16 years of age who is a profoundly disabled child as defined.

Who can receive the gifting concessions for a Special Disability Trust?

Immediate family members of the principal beneficiary who are at, or over, age or service pension age and are receiving a pension (for example Age Pension, Carer Payment).

Where there is more than one contributor to the trust, the combined concession first applies to those eligible family members who are receiving a pension after age or service pension age.

Who is an immediate family member?

An immediate family member includes:

- natural parents
- legal guardians (as defined)
- adoptive parents
- step parents
- grandparents, **and**
- siblings.

Note: the term “legal guardian” used in the definition of parent or immediate family member includes a person who is, or was, the legal guardian of the person with a severe disability while that person was under 18 years of age.

Note: siblings means brother, sister, half-brother, half-sister, adoptive brother, adoptive sister, step-brother or step-sister.

Can I contribute any amount of money or assets that I want to the trust?

You or your partner can contribute or gift assets to any value you choose at any time. However, the rate of your pension or allowance may be affected if you gift assets worth more than the allowable concessional amount or if you do not meet the required eligibility criteria.

Gifts affect your pension or allowance because they directly or indirectly reduce the assets available for your personal use. You must tell Centrelink about any gifts or transfers within 14 days of when they have occurred.

Any gift or number of gifts whose total value is greater than the allowable concessional amount will be assessed under normal gifting rules. See the factsheet *Gifting*.

How much gifting concession can the trust receive?

A gifting concession of up to \$500 000 combined is available for eligible family members of the principal beneficiary. This concessional amount can only be used once. For example, if an eligible contributor gifts to a Special Disability Trust and receives a concession, then dies, their concession amount cannot be accessed by any other immediate family member.

Assistance in the form of counselling and mediation services, is available for families who may be at risk of conflict through the process of contributing to such a trust.

How to find out more

Financial Information Service **13 2300**
 Planning for or needing help in retirement

Financial Information Service seminar bookings **13 6357**

Looking for work **13 2850**

Parent or guardian **13 6150**

To speak to Centrelink in languages other than English **13 1202**

TTY* enquiries **Freecall™ 1800 810 586**

*TTY is only for people who are deaf or have a hearing or speech impairment. A TTY phone is required to use this service.

Go to our website at www.centrelink.gov.au

Check the “we speak your language” link on Centrelink’s website for information in languages other than English.

Note: calls from your home phone to Centrelink “13” numbers from anywhere in Australia are charged at a fixed rate. That rate may vary from the price of a local call and may also vary between telephone service providers. Calls to “1800” numbers from your home phone are free. Calls from public and mobile phones may be timed and charged at a higher rate.

Disclaimer

The information contained in this publication is intended only as a guide to payments and services. It is your responsibility to decide if you wish to apply for a payment and to make an application, with regard to your particular circumstances.

This information is accurate as at September 2008. If you use this publication after that date, please check with us that the details are current.