

Special Disability Trusts

As a parent or carer of a person with a severe disability, it is important to ensure that the support, care and financial future of your loved one will continue in the event you are no longer able to provide for them.

What is a Special Disability Trust?

A Special Disability Trust ("SDT") is a legal vehicle which provides remarkable benefits for the current and future care of family members with severe disabilities.

A SDT is a trust established as part of your estate plan to ensure that a loved one with a severe disability is still able to receive social security payments and concessions. Setting up a SDT also allows for immediate family members and carers to make financial provisions and gift contributions to transfer assets directly into the trust for the beneficiary's ongoing care and accommodation both now and in the future.

Who can establish a SDT?

Anyone may establish a SDT as long as they comply with the following requirements in order to be assessed and approved by the Department of Human Services:

- The primary purpose of the SDT must be to provide solely for the care and accommodation needs of the beneficiary
- There must only be one primary beneficiary
- The beneficiary must meet the definition of 'severe disability'
- Have an independent trustee
- Abide by investment guidelines
- Comply with annual financial reporting and tax requirements

Why use special planning for disability?

Whether special arrangements are required will depend on your personal circumstances, the abilities of your loved one and the resources available to them.

No two individual situations are identical. However, a common consideration for establishing a SDT is that it provides ongoing security for your loved one in the long term and creates safeguards for the protection of their financial future. This protection is especially important where your loved one may need considerable assistance from others to manage their money and assets.

What are the benefits of a SDT?

There are many benefits of a SDT which include the following:

Social security:

- The principal residence held for the beneficiary is exempt from the Centrelink assets test
- Income is exempt from the means test for calculating the beneficiary's income support payment
- The beneficiary can work up to 7 hours at or above the relevant minimum wage or can work with no restricted hours through the Supported Wage System
- A gifting concession of up to \$500,000 is available to eligible family members who are also receiving social security benefits
- An asset tests exemption of up to \$636,750 is available for the beneficiary (as at 1 July 2015)

Medical, care and accommodation benefits

- Payment of medical and dental expenses, including health insurance, ambulance cover, medicine, surgery, specialist and GP services is covered by a SDT
- Payment for reasonable accommodation needs, including maintenance and modification of the beneficiary's primary residence and payment for the purchase of property, rent or accommodation bonds is covered by a SDT

Health, wellbeing and recreation

- The beneficiary can be given up to \$11,250 per year to spend on recreational and social outings which offers greater flexibility and more comprehensive care for your loved one.

Taxation Concessions

There is a Capital Gains Tax exemption for the following:

- Any asset donated into the SDT
- The donation of the beneficiary's main residence into the SDT
- For the recipient of the beneficiary's main residence if disposed of within two years of the beneficiary's death

Unexpended income is taxed at the beneficiary's personal income tax rate rather than the highest marginal tax rate.

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Reviews and Compliance Checks

SDTs undergo reviews annually and the required documents must be provided to the Department of Human Services for evaluation.

The required documents for annual reviews are:

- Financial Statements
- Income Tax Return
- Statutory Declaration that confirms that the SDT's expenditure was solely on the care, accommodation and discretionary costs related to and for the benefit of the beneficiary.

It is also important that your intended beneficiary be assessed under the *Social Security Act 1991* (Cth) prior to establishing a SDT.

Care must be taken to ensure compliance with the primary purpose of a SDT which is to care for your loved one with a severe disability. Non-compliance may result in an inability for the social security and taxation concessions of the SDT to be implemented.

How long will a SDT last for?

A SDT may be established once you have received approval by Centrelink or through your Will.

In either instance, the SDT will end on the earlier of either of the following:

- The death of the beneficiary
- When the assets of the trust are fully expended on the beneficiary
- On an earlier date as required by law

If the beneficiary dies before all the assets are fully expended, the SDT will terminate and the SDT's assets will vest in the residual beneficiaries named in the SDT.


Is this right for me?



If you are caring for a loved one with a special disability and would like some peace of mind in relation to their financial well being, please contact us today for a free consultation.



We have the expertise and the experience to show you how you can use a SDT to provide security, positivity and stability for the future of your loved one.

Our estate planning solutions are comprehensive and tailored to your particular needs to ensure that your assets and interests are protected and that your family and loved ones will be cared for in accordance with your vision.

We look forward to ensuring that your loved ones are protected now and in the future.

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