



Villamanta Disability
Rights Legal Service Inc.

Villamanta Disability Rights Legal Service Inc.

Information Sheet Updated February 2015

Special Disability Trusts

What is a Special Disability Trust?

A special disability trust is made by the parents or immediate family members of a person with a disability to plan for their future care and accommodation.

We recommend you consult with a financial advisor and/or solicitor for advice before establishing a special disability trust as it may affect your financial security and/or social security entitlements.

Benefits of a Special Disability Trust

1. Gifting concession of up to \$500,000 combined is available for eligible family members of a special disability trust.
2. A tax exemption of up to \$596,500 (indexed each year) is available to the person with a disability benefiting from the trust.

Features of a Special Disability Trust

A Special Disability Trust must meet the following requirements:

- Be “protective” in nature.
- Have only one principal beneficiary.
- The principal beneficiary must be eligible to qualify for a Special Disability Trust.
- The Special Disability Trust must provide only for the accommodation and/or care for the specific needs of the principal beneficiary.
- A Trust Deed is required that contains the clauses as set out in the model trust deed.
- A Special Disability Trust has an independent trustee, or alternatively have more than one trustee.
- Comply with investment restrictions.
- Provide annual financial statements.
- Conduct independent audits when required.

Who can be the Principal Beneficiary of a Special Disability Trust?

The Principal Beneficiary of a Special Disability Trust is the person who stands to gain from the trusts' creation. That is, the person who's accommodation and/or care is being catered for by the trust. A person can be found eligible in one of three circumstances:

Important Note - This Information Sheet has been produced only for use in Victoria, Australia. Some of the laws mentioned in this Information Sheet will be different in other places.

1. The person is over 16 years of age, and:
 - Their level of impairment would qualify them for the Disability Support Pension OR is already receiving Department of Veterans' Affairs Invalidity Support Pension OR Department of Veterans' Affairs Invalidity Income Support Pension, and;
 - The person has a level of disability that, if there was a sole carer available, would qualify the carer for Carer Payment or Carer Allowance, and;
 - Who has a disability and is unable to work over seven hours on the open labour market.

2. The person is over 16 years of age, and:
 - Their level of impairment would qualify them for the Disability Support Pension OR is already receiving Department of Veterans' Affairs Invalidity Support Pension OR Department of Veterans' Affairs Invalidity Income Support Pension, and;
 - Is living in an institution, hostel or group home where care is provided for people with disabilities and funding is provided under an agreement between the Commonwealth, State and/or Territories, and;
 - Who has a disability and is unable to work over seven hours on the open labour market.

3. The person is a child under the age of 16, and:
 - They have a severe disability or medical condition;
 - They have a carer who has been given a qualifying rating of 'intense' under the Disability Care Load Assessment (Child) Determination for caring for that person, and;
 - Who has a treating health professional certify in writing that, because of that disability or condition:
 - i. The person will need care for six months or more, and;
 - ii. The personal care is required to be provided by a specific number of persons.

Contributing to a Special Disability Trust?

Almost anybody can make a contribution to a Special Disability Trust, however if a contributor is currently receiving Centrelink benefits, any contributions may affect their regular entitlements.

However, immediate family members are able to make contributions up to \$500,000.00 to the Special Disability Trust without it affecting their Centrelink entitlements. Such people include:

- Natural parents;
- Legal Guardians;
- Adoptive Parents;
- Step Parents;
- Grandparents;
- Siblings.

Again, please consult with a financial advisor and/or solicitor before deciding whether a Special Disability Trust is right for you.

For more information call:

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