

update

29 September 2006

Estate Planning Update: Financial provision for future care of children with a severe disability

Many people with disabilities are experiencing a longer life span. For sons and daughters with disabilities cared for by their parents this may mean they will outlive their carer or simply live beyond their carer's capacity to provide care.

Understandably, many ageing parent carers are concerned about what will happen when they are no longer able to provide care to their sons or daughters with severe disability.

Some ageing parents have the financial means to make private provisions for the current and future accommodation and support needs of their son or daughter. However, the barriers within the existing social security system may have discouraged them from doing so.

From 20 September 2006, parents and immediate family members of a person with a severe disability will be able to place up to \$500,000 into a special disability trust for the future care and accommodation of the person without being affected by social security means test and gifting rules.

The benefits of a special disability trust include the following:

- trust income and distributions that are used solely for the care and accommodation of the person with a severe disability will be exempt from the social security means test

- assessable trust assets up to the specified limit (\$500,000 indexed annually) are exempt from the social security assets test

The main characteristics of a special disability trust include requirements that the trust:

- be 'protective' in nature
- have only one principal beneficiary (i.e. the person for whom the trust is established)
- the principal beneficiary must meet the eligibility criteria for a person with a 'severe disability'
- provide only for the accommodation and care needs of the principal beneficiary
- pave a trust deed that contains certain required clauses
- have an independent trustee or more than one trustee
- comply with the investment restrictions
- provide annual financial statements
- conduct independent audits when required

For more information

For more information, please contact:

- Robin Parsons, Special Counsel on 03 9321 7826
rparsons@rigbycooke.com.au
- James Shattock, Lawyer on 03 9321 7831
jshattock@rigbycooke.com.au

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