

s22-out of scope



Australian Government Services Australia

Gifting concessions to a Special Disability Trust (SDT) 043-04070040

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Background

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This document outlines information about the gifting concessions applicable to an SDT.

Overview

An SDT is a private trust set up to allow immediate family members, and certain close relatives, to make provision for the future care and accommodation for their children with a severe disability or medical condition.

A contribution to an approved SDT may be exempt from the deprivation provisions, if the total contribution amount to the SDT is below the concessional gifting cap and meet certain criteria.

Eligibility for gifting concession

Anyone can gift to an approved SDT, however to be entitled to a gifting concession the contributor must meet **all** of the following:

- be an immediate family member or a certain close relative. An immediate family member or a close relative includes natural parents, step-parents, adoptive parents, grandparents, [legal guardian for SDT purposes](#) and a [sibling for SDT purposes](#). It does **not** include foster parents, step-grandparents, parent siblings, partners, children or in-laws
- be currently receiving a social security pension from Centrelink or a Department of Veterans' Affairs (DVA) Service Pension or a DVA Income Support Supplement (ISS)
- be Age Pension age (for partnered customers only one person needs to be Age Pension age)
Note: Age Pension age differs for DVA customers. For DVA Service Pension, the Age Pension age for veterans is earlier than the social security legislated Age Pension age
- the SDT concession amount must not be more than the [concessional gifting cap](#)

If the contributor does not meet these criteria, the funds gifted is treated as deprivation (if the contributor is in receipt of an income support payment). If the contributor is not entitled to the gifting concession at the time of the gift but will turn Age Pension age, or be in receipt of an appropriate payment within 5 years of the gift being made, they may be entitled from the date of change to the end of the deprivation period.

It is recommended if a person is considering contributing to an SDT they seek professional advice from their financial advisor, solicitor and/or accountant. There could be tax implications involved in this decision, as well as other impacts for their financial security.

The Data Exchange for SDT alerts DVA to any contribution and the extent of any application of the gifting concession and can be used to confirm receipt of qualifying DVA pensions.

Beneficiary gifts to the SDT

The contributor cannot be the beneficiary or their partner, unless the funds are from a death bequest or superannuation death benefit received within the last 3 years before the transfer to an SDT.

In certain circumstances, the requirement to transfer within the last 3 years may be waived under Section 1209U of the Social Security Act 1991 and in accordance with Part 3 of the Social Security (Special Disability Trust) Guidelines 2021 where:

- transfer of the asset to the trust was delayed as a result of court proceedings relating to the asset, or
- assets were previously transferred to a trust intended to be a Special Disability Trust, or
- intention was to transfer the assets within the allowable three year time frame, and
- contravention of paragraph 1209R(1)(b) did not involve fraudulent conduct

Delegation to approve this waiver sits with the Income Support Means Test Team.

Any transfer of compensation paid for or on behalf of the beneficiary or their partner causes the SDT to become non-complying from the date of the transfer.

The [Resources](#) page contains examples of gifting.

Related links

[Special Disability Trust \(SDT\) - Initial contact](#)

[Assessing deprivation/gifting](#)

[Special Disability Trust \(SDT\) beneficiary assessment process](#)

[Assessing a Special Disability Trust \(SDT\)](#)

[Review of a Special Disability Trust \(SDT\)](#)

[Cessation of a Special Disability Trust \(SDT\)](#)

[Coding a Special Disability Trust \(SDT\)](#)

Process

This document outlines information about the gifting concessions applicable to an SDT.

On this page:

[Determining entitlement to gifting concession to an SDT](#)

[Coding a gift and gifting concession](#)

Determining entitlement to gifting concession to an SDT

Table 1

Step	Action
1	<p>Advice received of SDT contribution/intention to contribute + Read more ...</p> <p>A person contacts to advise they have or they are considering contributing funds to a Special Disability Trust (SDT).</p> <p>If a customer is considering contributing to an SDT, it is recommended they seek professional advice to check any tax or other financial implications involved in this decision.</p> <p>Does the customer intend to contribute and wishes to see a Financial Information Service (FIS) Officer first?</p> <ul style="list-style-type: none"> • Yes, arrange contact with Financial Information Service (FIS). Procedure ends here • No, go to Step 2
2	<p>Check if Centrelink/Department of Veterans' Affairs (DVA) payments are being received + Read more ...</p> <p>Is the contributor or their partner currently receiving a social security pension from Centrelink, a DVA Service Pension or DVA Income Support Supplement (ISS)?</p> <ul style="list-style-type: none"> • Yes, go to Step 3 • No, go to Step 5

3	<p>Family Member + Read more ...</p> <p>Eligibility for the concession is limited to an immediate family member or close relative. This includes natural parents, step-parents, adoptive parents, grandparents, or meet the definition of a legal guardian for SDT purposes or a sibling for SDT purposes.</p> <p>Note: it does not include the beneficiary, foster parents, step-grandparents, parent siblings, partners, children or in-laws.</p> <p>Is the contributor an immediate family member/close relative?</p> <ul style="list-style-type: none"> • Yes, go to Step 4 • No, go to Step 5
4	<p>Age pension age + Read more ...</p> <p>Is the contributor or their partner Age Pension age?</p> <ul style="list-style-type: none"> • Yes, contributor can access the gifting concession, go to Step 6 • No, go to Step 5 <p>Note: for partnered customers only one partner needs to be Age Pension age to qualify for gifting concession. If the customer or their partner is in receipt of a DVA Service Pension, the Age Pension age is the earlier age for veterans.</p>
5	<p>No entitlement to gifting concession + Read more ...</p> <p>Has a contribution been made to an SDT?</p> <ul style="list-style-type: none"> • Yes: <ul style="list-style-type: none"> ◦ Send details of the gift to a Complex Assessment Officer (CAO). Create an s47E(d) ◦ CAO's record the gift on the s47E(d) screen. For coding help, see Step 1 in Table 2 • No, tell the customer to notify if a gift is made later. Procedure ends here <p>Note: although there is no entitlement to a gifting concession at present, this may be reviewed later, if there is a change in the contributor's or partners circumstances (for example, they claim a social security pension, veteran's pension or turn Age Pension age).</p>
6	<p>Concession + Read more ...</p> <p>Concession entitlement is determined by date of contribution order.</p> <p>If 2 or more eligible contributors contributed on the same day, assessment of gifting concession is determined by the person who first claimed a social security pension, DVA Service Pension or DVA ISS and is of Age Pension age.</p> <p>The s47E(d) screen displays the total contributions and any concession amounts already allowed (if this is the first contribution, the s47E(d) is presented).</p> <p>Advise if the additional contribution will remain under the concessional gifting cap available, or the amount of the contribution is in excess of the total concessions.</p> <p>Has the contribution been made to the SDT?</p> <ul style="list-style-type: none"> • Yes: <ul style="list-style-type: none"> ◦ Send detail of the gift to a Complex Assessment Officer. Create an s47E(d) ◦ CAO'S record the contribution on the s47E(d) screen, see Step 1 in Table 2 • No, tell the customer to notify if a gift is made later. Procedure ends here <p>Note: gifting examples can be found on the Resources page</p>

Coding a gift and gifting concession

For Complex Assessment Officer (CAO) use only

Table 2: Only SDT Processing CAO's.

Step	Action
1	<p>Coding a gift + Read more ...</p> <p>All contributors are recorded, regardless if the contributor has a CRN or not.</p> <p>If the contributor has an existing CRN, the SDT is linked. A person may be a contributor without being on a payment or Health Care Card, but may claim a means tested payment or Health Care Card within 5 years of contributing to an SDT.</p> <p>Check the contributor is linked to the SDT via the s47E(d) screen.</p> <p>When navigating to the s47E(d) screen, the s47E(d) screen is presented first. If gifts have already been made to the SDT, select the correct contributor, the s47E(d) will be presented to allow updating of any new contribution.</p> <p>If this is the first contribution, go the s47E(d) screen and update:</p> <p>s47E(d)</p> <p>If the contributor is receiving a social security pension and is not Age Pension age, but is within 5 years of the gift, go to Step 2</p> <p>Note: for a couple use the customer's CRN if the partner is current DVA (and both are Age Pension age). If the social security pension customer is not Age Pension age, use the DVA partner's CRN (if eligible).</p> <p>Procedure ends here.</p>
2	<p>Contributor is Age Pension age within 5 years of gift being made + Read more ...</p> <p>If the contributor is not entitled to the gifting concession at the time of the gift, but will turn Age Pension age within 5 years of the gift, they may be eligible for the concession later.</p> <p>For current customers</p> <p>In Customer First, create s47E(d) on the s47E(d) screen and complete the fields as follows:</p> <p>s47E(d)</p>

s47E(d)

The review will mature on the s47E(d) coded in the s47E(d) activity. Workload Management will allocate the review for manual action.

The gift concession entitlement must be updated on the s47E(d) screen if the contributor becomes eligible for the gifting concession, once they or their partner turn Age Pension age.

For non-income support customers

Tell the contributor the gifting concession does not apply to them, but if they should claim a social security pension and turn Age Pension age within 5 years of the gift date, this decision can be reviewed.

Procedure ends here.

References

Policy

[Social Security Guide, 4.14.4.10, Gifting to a Special Disability Trust](#)

[Social Security Guide, 4.14.4.20, Gifting Concession for Special Disability Trusts](#)

[Social Security Guide, 4.14.4.30, Deprivation & Special Disability Trusts](#)

Legislation

Links to the Federal Register of Legislation site go to a 'Series' page. Select the 'Latest' version.

[Social Security Act 1991, section 1209Z. Effect of certain transfers to special disability trusts](#)

[Social Security \(Special Disability Trust\) Guidelines 2021](#)

[Veterans' Entitlements Act 1986, 5QA. Pension age for veterans](#)

[Veterans' Entitlements Act 1986, 5QB. Pension age for persons other than veterans](#)

Resources

Gifting examples for an SDT

These amounts may not be current. They are examples only. For current payments, see [Rates and thresholds](#).

Item	Example
1	<p>Gifts to SDT before 20 September 2006 + Read more ...</p> <p>All gifts made by customers to an approved SDT before 20 September 2006 are to be assessed under the deprivation provisions.</p>

	<p>Scenario: Kevin is 70 years of age and on a reduced rate of Age Pension. Kevin gifts funds into a trust solely for a grandchild:</p> <ul style="list-style-type: none"> • \$200,000 in January 2004, and • \$200,000 after 20 September 2006 <p>\$200,000 gifted January 2004 - This amount was assessed as a gift as Kevin was not the attributed controller of the trust. As this gift was before the changes on 20 September 2006 it is still assessable under the deprivation provisions and will continue to affect Kevin's rate of Age Pension until 5 years after the date of the gift.</p> <p>\$200,000 gifted after 20 September 2006 - If the trust is determined to be a SDT type trust, then this amount meets the criteria of a SDT and is exempt from deprivation provision because the funds were gifted on or after the start date of the SDT trust. This will have no effect on Kevin's Age Pension.</p>
2	<p>Customer under Age Pension age gifts to SDT + Read more ...</p> <p>All gifts made by customers under Age Pension age to a SDT for their child who meet the definition of a person with a severe disability or medical condition for SDT purposes on or after 20 September 2006 will be assessed under the deprivation rules until the first of the customer or their partner reaches Age Pension age.</p> <p>The gift is not exempt if the customer or partner gifting the funds is under Age Pension age.</p> <p>Scenario: Bob and Jenny set up a SDT for their child and gift \$250,000. Bob is 59 years of age, Jenny is 55 years of age.</p> <p>As Bob and Jenny are both under Age Pension age the funds gifted are assessable under deprivation provisions for 5 years.</p> <p>If applicable, also see Item 4.</p>
3	<p>Gifts above/below concessional gifting cap + Read more ...</p> <p>Gifts under concessional gifting cap</p> <p>Scenario: Neville and Anna are both 65 years of age and in receipt of a reduced rate of Age Pension. They gift \$400,000 to a SDT for their child on 21 November 2006.</p> <ul style="list-style-type: none"> • As the funds were gifted after 20 September 2006 and are below the concessional gifting cap (assuming no other gifts have been made) the \$400,000 is exempt from the deprivation provisions • Neville and Anna may be entitled to a higher rate of pension because of their reduced assets • Neville and Anna can also gift another \$100,000 to the trust at a later date before any deprivation is assessable as there are no other eligible contributors <p>Gifts above concessional gifting cap</p> <p>Scenario: In November 2006 Ben a 75 year old Age Pensioner establishes a SDT for their grandchild Mitchell and gifts \$400,000. Ben gifts an additional \$100,000 in January 2007. Ben then gifts a further \$50,000 in February 2007. There have been no other contributions which attract a concession.</p> <ul style="list-style-type: none"> • Ben's first gift of \$400,000 is exempt from the deprivation provision as it is less than the concessional gifting cap • Ben's gift of \$100,000 is also exempt from the deprivation provision as the concessional funds in the SDT does not exceed the concessional gifting cap • Ben's further gift of \$50,000 exceeds the SDT concessional gifting cap of \$500,000. Therefore this additional \$50,000 is assessed under the deprivation provisions for a period of 5 years from the date of the gift
4	<p>Customer turns Age Pension age in the deprivation period + Read more ...</p> <p>Scenario 1: Arthur and Vicki set up a SDT for their child and gift \$250,000. Arthur is 65 years of age, Vicki is 56 years of age.</p> <p>As Arthur and Vicki are both under Age Pension age the funds gifted are assessable under deprivation provisions. Arthur is Age Pension age in 2 years' time (when he is 67 years of age) the deprivation provisions will cease as Arthur is Age Pension age and claiming a Social Security pension.</p> <p>Scenario 2: George is 62 years of age and establishes a SDT for their child who meets the definition of a person with a severe disability or medical condition for SDT purposes. On 12 November 2006, George gifts \$600,000 to the SDT.</p>

	<ul style="list-style-type: none"> while George is under Age Pension age the full \$600,000 is assessed as a gift and subject to the deprivation provisions when George reaches Age Pension age and claims a social security pension \$500,000 (the concessional gifting cap) is exempt from the deprivation provisions as there are no other eligible contributions made in the interim. This leaves \$100,000 as deprivation for the balance of the 5 year deprivation period
5	<p>Gifts from more than one person and total is over concessional gifting cap + Read more ...</p> <p>Scenario: In December 2006, Tony a 75 year old Age Pensioner establishes a SDT for their grandchild David and gifts \$400,000. David's grandparent Kate (divorced from Tony) also gifts \$100,000. Tony then gifts a further \$50,000.</p> <ul style="list-style-type: none"> Tony's first gift of \$400,000 is exempt from the deprivation provision as it is less than the concessional gifting cap Kate's gift of \$100,000 is also exempt from the deprivation provision as the concessional funds in the SDT does not exceed the concessional gifting cap Tony's second gift of \$50,000 exceeds the SDT concessional gifting cap of \$500,000. Therefore this additional \$50,000 is assessed under the deprivation provisions for Tony for period of 5 years from the date of the gift
6	<p>Death of a beneficiary + Read more ...</p> <p>If the funds are not returned to the contributors, there may be gifting implications under the means test if the beneficiary died within 5 years of a contribution.</p> <p>Gifting will occur if a contributor gifted to the trust within 5 years of the cessation of the trust and received a concession for the gift.</p> <p>Deprivation will only apply where the contributor does not receive, on the termination of the trust, a comparable percentage of the remaining funds which reflects their contribution to the trust.</p> <p>For more information see, Cessation of a Special Disability Trust (SDT).</p>
7	<p>Death of the contributor, does this change the gifting concession? + Read more ...</p> <p>Where a contributor has accessed all or part of the gifting concession amount, and the contributor subsequently dies, the gifting concessional amount remaining for other contributors is not changed.</p> <p>Once a gifting concession amount has been accessed, it is no longer available, irrespective of what happens to the original donor.</p>
8	<p>Contributor's pension is cancelled, does this change the gifting concession? + Read more ...</p> <p>Where a contributor has accessed all or part of the gifting concession amount, and the contributor's pension is cancelled at a later date, the gifting concessional amount remaining for other contributors is not changed.</p> <p>Once a gifting concession amount has been accessed, it is no longer available, irrespective of what happens to the original donor.</p>
9	<p>Contributor claims a non-qualifying payment + Read more ...</p> <p>Where a contributor has accessed all or part of the gifting concessional amount, and the contributor subsequently claims a non-qualifying payment, (that is, Exceptional Circumstances Relief Payment or Farm Help) they cannot access the gifting concession amount while they are receiving the non-qualifying payment.</p> <p>An exception to this is where their partner continues to receive a qualifying payment.</p> <p>The gifting concession amount is only allowed where the person, or their partner, are receiving a Social Security or Department Veterans' Affairs (DVA) pension.</p> <p>If they later begin receiving a Social Security or DVA pension, the gifting concession amount originally allowed becomes effective again.</p> <p>The gifting concession amount remaining for other contributors is not changed. Once a gifting concession amount has been accessed, it is no longer available, irrespective of what happens to the original contributor.</p>