



# Special Needs Trusts

A Special Needs Trust (SNT) is an irrevocable trust created to ensure that a beneficiary who has a disability can enjoy the use of property held in trust for his or her benefit.

An SNT may be established to prevent a beneficiary from losing access to essential government benefits such as: Social Security Disability Insurance (SSDI or SSD), Supplemental Security Income (SSI) and federal and state sponsored Medicaid programs. SNTs are frequently established for the benefit of a person who has a disability to receive an inheritance, personal injury settlement, proceeds from criminal injuries, or insurance settlements. They are often setup under the guidance of a structured settlement planner in cooperation with a qualified legal and financial team.

The person with a disability, a parent, guardian or court can establish a self-settled SNT for the sole benefit of a disabled person under the age of 65. Under current social security law, the trust assets are not counted as assets available to the beneficiary for qualification purposes. If the beneficiary had the right to outright possession of the assets, the trust must include “payback” provisions for Medicaid upon the death of the beneficiary. Third-party SNTs that are established by anyone other than the beneficiary (or someone acting on their behalf), do not have an age restriction and do not need to include Medicaid “payback” provisions.

Permissible payments or distributions from a Special Needs Trust are typically not regarded as black and white. Several factors must be considered when administering an SNT, such as knowing the government benefit programs available to the beneficiary.

Special needs trusts are complicated instruments that are affected by many different competing laws, rules and regulations. Competent professionals specializing in this unique aspect of law should be engaged to draft the documents. Great care must be taken in the choice of appropriate trustees to administer the trust. An independent trust company is often the preferred trustee since it can act more efficiently to secure government benefits than a court appointed official or an individual that does not have the expertise.

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