Strategy 6
Establish a special disability trust

If your spouse has a severe disability, a special disability trust could be established for them when you pass away.

What are the benefits?

By using this strategy, you could:

- provide for your spouse's reasonable accommodation and care needs, and
- reduce their accommodation bond or charge and daily income tested fee.

How does the strategy work?

A special disability trust (SDT) is a type of trust that can be established for a person who meets the definition of 'severely disabled' for social security purposes.

They are usually established by a representative of the disabled person using money the disabled person receives via a deceased person's Will or a superannuation death benefit. The funds also need to be transferred into the SDT within three years of the date of death.

Provided these and other conditions are met:

- all assessable assets held in the SDT are exempt up to the concessional asset value limit (currently $596,500[1]), and
- all income from the SDT assets is not assessed for daily income tested fee purposes.

This strategy could therefore reduce the accommodation costs and daily income tested fee your disabled spouse would have to pay when they move into aged care.

Social security implications

The income and assets (up to the allowable threshold) of the SDT will not be assessed for social security purposes. This strategy could therefore improve your disabled spouse's pension entitlement.

1 Applies as at 1 July 2012 and is indexed on 1 July of each year.

Case study

Tony and Julia are married and currently receive the maximum age pension. They jointly own their home valued at $1 million and have $100,000 in a bank account. Tony is suffering from advanced dementia and Julia has been looking after him.

Julia was recently diagnosed with terminal cancer. When Julia dies, she wants Tony to have the best care available. She has found a place for Tony in an extra service facility nursing home that charges a minimum accommodation bond of $500,000, regardless of assessable assets.

Julia has also confirmed with Centrelink that Tony will meet the 'severely disabled' definition and therefore is eligible to be the principal beneficiary of an SDT.

To maximise Tony's financial position, their financial adviser recommends the home is transferred into Julia's name. Her solicitor also makes provisions in her Will to ensure that when she dies and the home is sold:

- $500,000 is made available to pay the accommodation bond, and
- $500,000 is placed in an SDT to pay for Tony's reasonable care expenses.

This will ensure the sales proceeds of the $1 million home is not assessed for aged care purposes. Also, because Tony's only assessable asset is the $100,000 bank account, he will still qualify for the full age pension and not have to pay the daily income tested fee.

Tips and traps

- While capital gains tax will generally not be payable on transferring the home from joint ownership to one person's name, transaction costs may be incurred.
- Other costs may be incurred when setting up and running a trust.
- The SDT concessions will not be available if the trust money is not used to provide for the reasonable accommodation and care needs of the principal beneficiary.
- Legal advice should be sought to ensure there are appropriate provisions in your will and for the establishment of the trust.