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Terminating a Special Needs Trust

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There are several circumstances where it is appropriate to terminate a third party Special Needs Trust. A third party trust is a trust that is comprised of assets that were either gifted or bequeathed from someone other than the trust beneficiary. Most commonly, a termination will occur at the beneficiary's death. In this situation, the Special Needs Trust most likely directs where the remaining assets will be distributed. This could be other siblings or family members or charities.

Another reason why a Special Needs Trust will terminate is because the Trust is out of funds. This might happen if the Special Needs Trust was not adequately funded in the first place, if the beneficiary's financial needs were greater than anticipated, or if the beneficiary outlived his or her life expectancy. Even if the Special Needs Trust still has some small amount of assets, the Trustee may decide that the costs of administering the Trust exceed the remaining assets and therefore, it does not make financial sense to continue to maintain the Special Needs Trust.

A third reason for terminating a Special Needs Trust is if the beneficiary is either no longer eligible for government benefits and will likely never be eligible for benefits or if a beneficiary no longer needs government benefits. In this type of circumstance, after all taxes and other expenses are paid, a properly drafted Special Needs Trust would direct the Trustee to either continue to hold the funds

for the benefit of the beneficiary in a non-Special Needs Trust (that could be used for any reason for the benefit of the beneficiary) or it would direct the Trustee to distribute the assets directly to the beneficiary, outright.

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