

# Approval for expenses & significant gifts

## Documents to be provided when applying to SACAT

### What approval do I need for expenses & gifts?

Administrators appointed by SACAT need to apply to SACAT for prior approval where in any one year of administration, expenses of the protected person will exceed the following amounts:

- **\$19,000** for accommodation costs (by way of rent or board and lodging) for the protected person ;
- **\$100,000** for premiums paid under the *Retirement Villages Act 2016*;
- **\$8,700** for the maintenance, education or advancement of the protected person's children and grandchildren;
- For the maintenance of the protected person's spouse or domestic partner, **whichever is the lesser of —**
  - the sum produced by adding together the amount of average weekly earnings applicable in respect of each week in that year; or
  - one half of the protected person's net income (taxable income less tax) for the last financial year.

For financial gifts less than the sums set out above, you will not need to seek SACAT's approval.

However you will need to account for this expenditure when you report to the Public Trustee in accordance with the conditions of the Administration Order. Public Trustee may make a recommendation to the Tribunal for disallowance of an item of expenditure if an administrator did not act in good faith or with reasonable care.

In considering applications for approval, SACAT needs to be satisfied that an administrator will deal with a protected person's estate in an appropriate manner and for the benefit of the protected person. The foremost concern is to protect the assets of the protected person.

### What do you need to provide for approval of expenses & significant gifts?

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|--------------------------|--|
| <input type="checkbox"/> | 1. <b>An application</b> (Administration (existing orders) – request for advice, direction or approval) completed online at <a href="http://www.sacat.sa.gov.au">www.sacat.sa.gov.au</a>   |
| <input type="checkbox"/> | 2. A <b>letter from the administrator</b> addressing: <ul style="list-style-type: none"> <li>• The type of approval sought</li> <li>• The reasons for the approval sought</li> <li>• The protected person's attitude to the approval sought (if it can be expressed or provided)</li> <li>• The protected person's attitude to the approval sought before suffering a loss of mental capacity (if known)</li> <li>• The attitude to the approval sought of all interested parties actively involved in the protected person's life (such as family members, carers etc)</li> </ul> |

|                          |   |
|--------------------------|---|
| <input type="checkbox"/> | <p>3. A <b>medical report</b> from the protected person's doctor advising:</p> <ul style="list-style-type: none"> <li>• Whether the protected person has a continuing mental incapacity which affects their ability to properly manage their finances and assets</li> <li>• Whether the protected person is capable of making a valid decision concerning the subject of the application for approval and if so, what are their views?</li> </ul> |
| <input type="checkbox"/> | <p>4. A <b>letter of consent</b> to the approval of the immediate family members and any potential beneficiaries under the protected person's Will</p>  |
| <input type="checkbox"/> | <p>5. A copy of the protected person's <b>last Will and testament</b></p> <p><input checked="" type="checkbox"/> The administrator <b>must not disclose</b> the contents of the person's Will to any other person other than the protected person <b>except</b> with the authority of the Tribunal (<u>see more below</u>)</p>  |
| <input type="checkbox"/> | <p>6. Copies of any <b>tax invoices</b> or other <b>financial documents</b> relating to accommodation costs, education expenses or needs of the protected person and/or their spouse or domestic partner</p>  |
| <input type="checkbox"/> | <p>7. A <b>summary</b> of the protected person's income, assets and liabilities</p>   |
| <input type="checkbox"/> | <p>8. Copies of the <b>income tax returns</b> of the protected person and their spouse or domestic partner for the last financial year</p>  |

### The Protected Person's last Will and testament

For the Tribunal to consider the application for approval, it requires, amongst other things, a letter from **any beneficiaries under the protected person's Will** relating to their views about the expenses or significant gifts.

Please note that, under section 40(3) of the *Guardianship and Administration Act 1993*, **an administrator must not, except with the authority of the Tribunal, disclose the contents of a Will** to which they have access under the Act.

Prior to contacting any person who is a potential beneficiary under the protected person's Will to gain their views on the approval for expenses and significant gifts, please contact the Tribunal via email at [sacat@sacat.sa.gov.au](mailto:sacat@sacat.sa.gov.au) or by phone on 1800 723 767 to seek approval to disclose the contents of the protected person's Will.

*On receipt of a protected person's Will, the Tribunal will automatically make a confidentiality order to ensure that the contents of the Will are not disclosed to any person except as required by law or with the authority of the Tribunal.*

### How to apply to SACAT

All applications to SACAT are completed through our online application form which you can find at our website: [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au).

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767. You can also visit SACAT's offices at Level 4 or 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks.

## **What fees apply to an application to approve expenses & significant gifts?**

There are no fees that apply to an application to approve expenses & significant gifts.

## **Contact the Tribunal**

For further information and assistance about applying to SACAT for approval of expenses & significant, please telephone SACAT on 1800 723 767 (select option 4 and then option 2).

This information sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice, you should seek that independently.