

The Omnibus Budget Reconciliation Act of 1993 (OBRA '93)

In the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), Congress created three exceptions to the general rule that an individual's assets held in trust are counted as resources when determining eligibility for public benefits. The three exceptions are the:

1. Individual "Special Needs Trust"
2. Disability Income Trust or Miller Trust
3. Pooled Special Needs Trust. **The Wesley Vinner Memorial Trust** operates under the pooled trust guidelines.

General Information

A pooled trust is a trust established and administered by a nonprofit organization. It is often called a "master trust" because it contains the assets of many different individuals, each in separate accounts established by individuals, and each with a beneficiary. By analogy, the pooled trust is like a bank that holds the assets of individual account holders.

When using the term "trust", it is important to distinguish between the master trust, which is established by the nonprofit organization, and the individual trust accounts within the master trust, which are established by the individual or another person for the individual.

The requirements of the SSI trust statute do not apply to a trust containing the assets of a disabled individual that meets the following conditions:

1. The pooled trust is established and managed by a nonprofit association;
2. The trust is irrevocable
3. Separate accounts are maintained for each beneficiary, but assets are pooled for investing and management purposes;
4. Accounts are established solely for the benefit of the disabled individual;
5. The account in the trust is established by the individual, a parent, grandparent, legal guardian, or a court; and
6. The trust provides that to the extent any amounts remaining in the beneficiary's account upon the death of the beneficiary, that are not retained by the trust, the trust will pay to the State the amount remaining up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under a State Medicaid plan.

NOTE: There is no age restriction under this exception.

OBRA '93 - 42 U.S.C. § 1396p(c)(d)(4); section 1382c(a)(3)