

What are the social security gifting rules?

Before gifting away some of your assets or retirement savings to help family or friends, consider the impact to your social security entitlements.

How does it work?

If you or your partner receive a social security entitlement from Centrelink or Department of Veterans' Affairs (DVA), amounts you gift to friends or family may still count when working out your payment rate.

A gift occurs where you sell or transfer income or an asset, and you receive less than its value or nothing in return.

A gift has not occurred if you receive adequate consideration for the income or asset sold or transferred. i.e. you sell or transfer income or an asset, and you receive money, goods, or services of the same value.

The gifting rules do not prevent you from making a gift to another person however it applies a cap on how much you can give away before your entitlement is affected.

When applying for a Centrelink/DVA payment, you will generally be asked to disclose gifts made in the previous five years. You must also tell Centrelink/DVA about any gifts, sales or transfers within 14 days on an ongoing basis after your application is approved.

Gifting limits

There are two gifting limits as follows:

1. A person or a couple can dispose of assets of up to \$10,000 each financial year. This \$10,000 limit applies to a single person or to the combined amounts gifted by a couple, and
2. An additional disposal limit of \$30,000 over a five-financial-years rolling period.

The \$10,000 and \$30,000 limits apply together meaning that assets can be gifted up to \$10,000 per financial year without penalty and without exceeding the gifting free limit of \$30,000 in a rolling five-year period.

Exceeding gifting limits

If you gift over the limits, the portion greater than the gifting limit is called a deprived amount. Deprived amounts are maintained as a person's or couple's asset for five years from the date of the relevant gift and deemed for the income test.

After the five-year period, the deprived amount ceases and is no longer assessed as an asset or subject to deeming under the income test.

What is counted as gifting

Some examples of gifting for social security purposes include:

- Transferring ownership of an asset for less than its market value e.g. transferring a car, property or shares to someone without market value payment, or payment is less than market value.
- Paying school fees for grandchildren.
- Putting money and other assets into a family trust that you or your partner do not control.
- Instructing your income stream provider to redirect income payments to another person as you do not require the income.
- Where you have loaned money to another person and you forgive a portion of the loan, the amount forgiven can be seen as a gift.

Before you make a gift, contact Centrelink/DVA using the regular payment line or your financial adviser to check if it will change your payment.

Exemptions

Certain transactions are not counted as a gift. Broadly speaking, these include:

- Assets transferred between members of a couple, such as where a person who has reached age pension age withdraws money from their superannuation and contributes it to a superannuation account in the name of a spouse who has not yet reached age pension age.
- Certain gifts made by a family member or a certain close relative to a Special Disability Trust.
- Assets given, or construction costs paid for a 'granny flat' interest.

Other considerations

If you want to gift away a large amount in a single lump sum, you could consider a loan/gift strategy.

| Financial year | Gift | Loan value |
|----------------|---------------------------------------|------------|
| 2021/22 | \$10,000 | \$20,000 |
| 2022/23 | \$10,000 (amount of loan forgiven) | \$10,000 |
| 2023/24 | \$10,000 (amount of loan forgiven) | \$0 |

This strategy permits \$30,000 to be transferred to another person in a single financial year without exceeding gifting limits in future years.

Gifting allows you to help family members or friends. However, you will lose access to the funds and will lose the ability to generate income from it. You may gain an increase in Centrelink/ DVA entitlements, but this will be less than the amount you are giving away. Therefore, it is important to ensure you have sufficient financial resources and can afford to make the gift without any expectation of repayment in the future.

Example 1: Not impacted by gifting limits

| Financial year | Gift | Deprived asset under the \$10,000 in a single year rule | Deprived asset under the \$30,000 five-year rule |
|----------------|---------|---|--|
| 2018/19 | \$5,000 | \$0 | \$0 |
| 2019/20 | \$5,000 | \$0 | \$0 |
| 2020/21 | \$8,000 | \$0 | \$0 |
| 2021/22 | \$6,000 | \$0 | \$0 |
| 2022/23 | \$5,000 | \$0 | \$0 |

No deprived amount applies as gifts remain under \$10,000 in a single year and the total amount gifted over five years is \$29,000 which is within the \$30,000 per rolling five-year rule.

Example 2: Impacted by one of the gifting limits

| Financial year | Gifted amount | Deprived asset under the \$10,000 in a single year rule | Deprived asset under the \$30,000 five-year rule |
|----------------|---------------|---|--|
| 2021/22 | \$31,000 | \$21,000 | \$0 |
| 2022/23 | \$3,000 | \$0 | \$0 |

In 2021/22, a deprived amount of \$21,000 was created as it exceeds the \$10,000 in a single year rule. It will continue to be counted as an asset and subject to deeming for the income test for five years from the date of the relevant gift.

In 2022/23, while gifts totalling \$34,000 have been made, no deprived asset is assessed under the five-year rule after considering the deprived amounts already assessed, i.e. \$31,000 plus \$3,000 minus \$21,000 = \$13,000, which is less than the relevant five-year limit of \$30,000.

Example 3: Impacted by both gifting rules

| Financial year | Gifted amount | Deprived asset under the \$10,000 in a single year rule | Deprived asset under the \$30,000 five-year rule |
|----------------|---------------|---|--|
| 2018/19 | \$16,000 | \$6,000 | \$0 |
| 2019/20 | \$8,000 | \$0 | \$0 |
| 2020/21 | \$17,000 | \$7,000 | \$0 |
| 2021/22 | \$9,000 | \$0 | \$7,000 |
| 2022/23 | \$16,000 | \$6,000 | \$0 |

In 2021/22, total gifts up until that year are \$50,000 (\$16,000 plus \$8,000 plus \$17,000 plus \$9,000) minus deprived assets already maintained of \$13,000 (\$6,000 plus \$7,000) equals \$37,000. \$37,000 exceeds the \$30,000 5-year free area by \$7,000 accordingly a \$7,000 deprived asset is assessed.

Important information

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