ABLE Accounts Are Now Going To Be Allowed For Disabled Individuals

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Americans have had the ability to save for college and for their retirement in a tax-advantaged manner for many years. However, for families that include individuals with disabilities, there was no effective way for them to save for their disability related expenses in such a manner. The recently enacted "Achieving a Better Life Experience (ABLE) Act of 2014" will now make this possible. This new law will provide assistance to individuals and families that need to save money to help individuals with disabilities maintain their health, independence, and quality of life. The funds in these new accounts will supplement benefits that are provided by insurance, Medicaid, and SSI, among other sources.

The new law, which applies for tax years beginning on January 1, 2015, allows for the creation of ABLE accounts, which are tax-free accounts that can be used to save for disability-related expenses. These accounts will be offered by the state.

ABLE accounts can be created by individuals to support themselves or by families to support their disabled dependents. Assets held in ABLE accounts can be accumulated, invested, grown and distributed free from federal taxes. Contributions to the accounts are made on an after-tax basis and are therefore nondeductible. But assets in the account grow tax-free and are exempt from tax as long as they are used to pay for qualified expenses. This is similar to "529 Accounts" used to save for college. Coincidentally, the ABLE accounts are going to be known as "529A Accounts".

Funds in an ABLE account may be withdrawn tax-free if the money is used for disability-related expenses. Expenses qualify as disability related if they are for the benefit of an individual with blindness or a disability and are related to the disability. Qualified expenses include education, housing, transportation, employment training/support, health and wellness costs, assistive technology and personal support services, legal fees, financial management services, funeral and burial costs and other IRS-approved expenses.

Distributions used for nonqualified expenses are subject to income tax on the portion of such distributions attributable to earnings from the account, plus a 10% penalty However, as long as a distribution is rolled over within 60 days to another ABLE account for that person or an eligible sibling of that person, neither tax nor penalty will be assessed.

Each disabled individual is allowed to have only one ABLE account. Total annual contributions by all individuals to any one ABLE account can be made up to the current gift tax exclusion amount (currently $14,000), and must be made in cash (as opposed to securities, for example). Excess contributions to an account are subject to a 6% penalty tax. Total allowable contributions are subject to the State limit for Section 529 accounts. In Ohio, this threshold is currently $394,000. If an account reaches this limit, no further contributions are allowed, however, it can continue to grow from investment earnings.

Eligible individuals must have become blind or disabled before age 26, and must be entitled to benefits under the Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) programs. However, an individual doesn't need to receive SSI or SSDI to have an ABLE account. If an individual owns an ABLE account, it doesn't make them eligible for those programs. An individual can also become eligible for an ABLE account if a disability certificate is filed with the IRS.

Owning an ABLE account has no impact on Medicaid or SSI eligibility. The first $100,000 in ABLE account balances are exempt from being counted toward the SSI program's $2,000 individual resource limit. SSI payments may be suspended if an excess amount is contained in the account, therefore, it may not be advisable to allow an account balance to exceed this amount, even though a state may allow for an account to grow to a much higher balance, as previously mentioned. If an individual has no other assets, and the balance of their ABLE account is greater than $102,000, the individual is suspended (as opposed to terminated) from eligibility for SSI, but is still eligible for Medicaid benefits.

When an eligible individual passes away, any amounts remaining in the account (after Medicaid is reimbursed, if applicable) will go to the decedent's estate or to a designated beneficiary and is subject to tax on the account's investment earnings. A penalty will not be assessed in this circumstance.

Finally, if a contribution to an ABLE account is made more than one year before filing for bankruptcy, the assets contributed to the account by a parent or grandparent of a designated beneficiary may be protected in bankruptcy.

Congress has been discussing implementing this type of new law for many years, and are to be commended for doing so. It should help improve the quality of life for disabled individuals and their families, which is a very good thing.

If you have any questions concerning these new (and long overdue) accounts, please contact one of the tax professionals at Zinner & Co. LLP.