special needs financial planning
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ABLE Accounts: 10 Things You Should Know

From the ABLE National Resource Center

1. **What is an ABLE account?**
   ABLE Accounts, which are tax-advantaged savings accounts for individuals with disabilities and their families, will be created as a result of the passage of the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 or better known as the ABLE Act. The beneficiary of the account is the account owner, and income earned by the accounts will not be taxed provided the funds are used for qualified expenses. Contributions to the account made by any person (the account beneficiary, family and friends) will be made using post-taxed dollars and will not be tax deductible, although some states may allow for state income tax deductions for contribution made to an ABLE account.

2. **Why the need for ABLE accounts?**
   Millions of individuals with disabilities and their families depend on a wide variety of public benefits for income, health care and food and housing assistance. Eligibility for these public benefits (SSI, SNAP, Medicaid) require meeting a means or resource test that limits eligibility to individuals to report more than $2,000 in cash savings, retirement funds and other items of significant value. To remain eligible for these public benefits, an individual must remain poor. For the first time in public policy, the ABLE Act recognizes the extra and significant costs of living with a disability. These include costs, related to raising a child with significant disabilities or a working age adult with disabilities, for accessible housing and transportation, personal assistance services, assistive technology and health care not covered by insurance, Medicaid or Medicare.

   For the first time, eligible individuals and their families will be allowed to establish ABLE savings accounts that will not affect their eligibility for SSI, Medicaid and other public benefits. The legislation explains further that an ABLE account will, with private savings, "secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, Medicaid, SSI, the beneficiary's employment and other sources."

3. **Am I eligible for an ABLE account?**
   The ABLE Act limits eligibility to individuals with significant disabilities with an age of onset of disability before turning 26 years of age. If you meet this age criteria and are also receiving benefits already under SSI and/or SSDI, you are automatically eligible to establish an ABLE account. If you are not a recipient of SSI and/or SSDI, but still meet the age of onset disability requirement, you could still be eligible to open an ABLE account if you meet Social Security's definition and criteria regarding significant functional limitations and receive a letter of certification from a licensed physician. You need not be under the age of 26 to be eligible for an ABLE account. You could be over the age of 26, but must have had an age of onset before the individual's 26 birthday.

4. **Are there limits to how much money can be put in an ABLE account?**
   The total annual contributions by all participating individuals, including family and friends, for a single tax year is $15,000. The amount may be adjusted periodically to account for inflation. Under current tax law, $15,000 is the maximum amount that individuals can make as a gift to someone else and not report the gift to the IRS (gift tax exclusion). The total limit over time that could be made to an ABLE account will be subject to the individual state and their limit for education-related 529 savings accounts. Many states have set this limit at more than $300,000 per plan. However, for individuals with disabilities who are recipients of SSI, the ABLE Act sets some further limitations. The first $100,000 in ABLE accounts would be exempted from the SSI $2,000 individual resource limit. If and when an ABLE account exceeds $100,000, the beneficiary's SSI cash benefit would be suspended until such time as the account falls back below $100,000. It is important to note that while the beneficiary's eligibility for the SSI cash benefit is suspended, this has no effect on their ability to receive or be eligible to receive medical assistance through Medicaid.

   Additionally, upon the death of the beneficiary the state in which the beneficiary lived may file a claim to all or a portion of the funds in the account equal to the amount in which the state spent on the beneficiary through their state Medicaid program. This is commonly known as the "Medicaid Pay-Back" provision and the claim could recoup Medicaid related expenses from the time the account was open.

5. **Which expenses are allowed by ABLE accounts?**
   A "qualified disability expense" means any expense related to the designated beneficiary as a result of living a life with disabilities. These may include education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses, which help improve health, independence, and/or quality of life.

6. **Can I have more than one ABLE account?**
   No. The ABLE Act limits the opportunity to one ABLE account per eligible individual.

7. **Do I have to wait for my state to establish a program before opening an account?**
   No. While the original law passed in 2014 did stipulate that an individual had to open an account in their state of residency, Congress eliminated this provision in 2015. This means that regardless of where you might live and whether or not your state has decided to establish an ABLE program, you are free to enroll in any state's program provided that the program is accepting out of state residents.

   To determine which state ABLE programs are accepting out of state programs, please refer to the individual state pages- http://www.ablenrc.org/state-review. Examples of state ABLE programs accepting enrollment nationwide include: Ohio, Nebraska, and Tennessee. An example of a state ABLE program only accepting in-state residents would include the Florida ABLE United program.

8. **Will states offer options to invest the savings contributed to an ABLE account?**
   Like state 529 college savings plans, states are likely to offer qualified individuals and families multiple options to establish ABLE accounts with varied investment strategies. Each individual and family will need to project possible future needs and costs over time, and to assess their risk tolerance for possible future investment strategies to grow their savings. Account contributors or designated beneficiaries are limited, by the ABLE Act, to change the way their money is invested in the account up to two times per year.

9. **How is an ABLE account different than a special needs or pooled trust?**
An ABLE Account will provide more choice and control for the beneficiary and family. Cost of establishing an account will likely be considerably less than either a Special Needs Trust (SNT) or Pooled Income Trust. With an ABLE account, account owners will have the ability to control their funds and, if circumstances change, still have other options available to them. Determining which option is the most appropriate will depend upon individual circumstances. For many families, the ABLE account will be a significant and viable option in addition to, rather than instead of, a Trust program.

10. **How Will I know Which State ABLE Program is Right for Me?**

As of January 2018 there are o9ver 20 ABLE programs nationwide inviting eligible individuals to open an ABLE account regardless of their state of residence. When comparing State ABLE programs you may want to consider the following questions in order to find a program that best meets your needs:

Opening an Account

- What proof will the ABLE program require for you to document in order to open an account or show that your disbursements are qualified expenses?
- Is there a minimum contribution to open an ABLE account?
- Is there a fee to open an account and, if so, how much is that fee?

Maintaining the Account and Fees

- Is there a required minimum contribution to your account? If so, what is the amount?
- Are the fees front end loaded or are they reduced if you leave your funds invested for several years?
- Are there restrictions on how often you can withdraw funds from your account?

Investment Opportunities

- What are the investment options the state ABLE program offers?
- Are the options likely to meet your needs for limiting risk with the growth of your contributed dollars to the ABLE account?

- Does the program offer any unique or value added program elements to help you save, contribute to your account, grow the account, and manage your invested dollars?
- Does the state program offer any unique or value added program elements (such as a match or rewards program, financial literacy info or program for beneficiaries) to help you save, contribute to your account, grow the account, and manage your invested dollars? If so, what is it?

Unique to Your State

- Does your state have a program and, if so, do they offer a state income tax for contributions to their account?
- Is there a "debit card/purchasing card" available with the program? Are there added costs to this?

Note that when distributing for non-qualified expenses, the pro-rata portion of the earnings attributable to the non-qualified expenses are subject to tax plus a 10 percent penalty.

There is no assurance that the techniques and strategies discussed are suitable for all individuals or will yield positive outcomes. Investing involves risk including loss of principal. Prior to investing in an ABLE account, investors should consider whether the investor's or designated beneficiary's home state offers any state tax or other benefits available for investments in such state's ABLE program. Consult with your tax adviser before investing