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Planning for the Future with an ABLE Account

ABLE accounts were authorized by the Stephen Beck Jr. Achieving a Better Life Experience (ABLE) Act that was signed into law in December 2014.

The ABLE National Resource Center's website, ablenrc.org, contains links to state ABLE programs and a comparison tool.

If you or a family member has a disability, you may be interested in learning about a tax-advantaged option called an ABLE account which can be used to save or invest for qualified disability expenses. Most states have launched ABLE programs, and more are in the works.

Why are ABLE accounts needed?

Individuals with disabilities rely on Supplemental Security Income (SSI), Medicaid, and other federal public benefits for much-needed support such as income, health-care coverage, and food and housing assistance. However, retaining eligibility for these benefits depends on meeting a means or resource test. Individuals may have only $2,000 in countable assets, such as savings and retirement funds. This makes it difficult to establish financial independence and save for many disability-related expenses.

ABLE accounts help address this problem. Because funds in an ABLE account will generally not count toward this asset limit, individuals with disabilities have the opportunity to put money aside for their future needs without jeopardizing their eligibility for public benefits.

Who is eligible for an ABLE account?

If you have a significant disability that began before age 26, you may be eligible to open an ABLE account. If you meet that age criteria and are already receiving SSI or Social Security Disability Insurance (SSDI), you automatically qualify. You may also qualify if you're not receiving those benefits, but meet Social Security's definition of disability and are able to obtain certification from a physician.

If you have a family member who qualifies, you may be able to open and oversee an ABLE account on that person's behalf if you are legally authorized to do so (for example, you're the parent or legal guardian of a minor or someone who is legally unable to manage his or her account, or you have power of attorney). The individual with the disability remains both the account owner and the beneficiary. No matter who opens the account, each eligible beneficiary can have only one ABLE account.

How do ABLE accounts work?

You can open an ABLE account in your own state if your state has an ABLE program, or in any state that allows nonresidents to join (most do). Contributions can be made by the account owner or by family members, friends, employers, or others who want to provide financial support.

Investment options: Plans generally offer several investment options that target different investment strategies and risk-tolerance levels. Some programs also offer an interest-bearing option such as a checking or savings account. Contributions to your account will be invested in whatever option(s) you choose. Federal rules allow you to reallocate previously invested money twice per calendar year, but you can change investment options for new contributions at any time.*

Contribution limits: Annual and lifetime contribution limits apply. Contributions from all donors combined during the year cannot exceed the annual gift tax exclusion, which is $16,000 in 2022. ABLE account owners who work and who don't have an employer-sponsored retirement account, may save an additional $12,880 from their earnings in 2022 ($14,820 in HI and $16,090 in AK.) Each state sets its own lifetime limit, which is also the state's maximum for Section 529 college savings plan contributions.

Rollovers from 529 college savings plans: 529 account funds may be rolled over to an ABLE account (subject to contribution limits). The ABLE beneficiary must be the 529 account beneficiary or a family member of the 529 account beneficiary.

Eligibility for public benefits: Any account balance over $100,000 may temporarily affect SSI eligibility (but not Medicaid eligibility). When an ABLE account exceeds $100,000, SSI payments will be suspended until the balance falls back to the level required. Seek more information from your state regarding how your

Participating in an ABLE account may involve investment risk, including the possible loss of principal, and there can be no assurance that any investment strategy will be successful. Carefully consider a portfolio's risk, charges, and expenses before investing. Read the program's disclosure statement to learn more about the program, including investment objectives, risks, and tax implications.

*****Before investing in an ABLE plan, consider whether your state offers an ABLE plan that provides residents with favorable state tax treatment or other benefits such as protection from creditors. Consult a tax professional for more information.***

benefits may be impacted by ABLE account assets.

Medicaid payback provision: If an account owner who has been receiving Medicaid dies, a state is allowed to file a claim against the account balance for medical expenses that were paid during the period that the ABLE account was open. Any funds remaining after the state is reimbursed may be distributed to heirs. Not all states will pursue payback. Your estate planning professional can tell you more.

Tax benefits: ABLE accounts offer certain tax benefits. Any earnings accumulate tax deferred at the federal level (and in some cases at the state level). When you withdraw money, the earnings on these distributions will be tax free if they are used to pay qualified expenses. Though no federal income tax deduction is available, some states may offer tax incentives to residents.** The federal Savers' Tax Credit may also be available to individuals who contribute to their own ABLE account when they file their taxes.

What can ABLE funds be used for?

Money in an ABLE account must be used for qualified disability expenses. In general, these are expenses related to living with a disability. The following list is not exhaustive, but these expenses generally qualify:

- Housing costs, including rent and mortgage payments (funds used for these can affect SSI)
- Home improvement and modification
- Transportation, including purchase or modification of a vehicle
- Health care and related services, including insurance premiums, therapy, and equipment
- Personal assistance
- Assistive technology
- Education, including tuition, books, and supplies
- Employment training and support
- Financial management and administration

It's up to you to track how you spend your ABLE funds — you won't be required to submit documentation to the program. However, keep in mind that the earnings portion of a withdrawal not used for a qualified expense may be subject to ordinary income tax and a 10% federal penalty. Nonqualified withdrawals could also be considered income that could count against the beneficiary's eligibility for SSI benefits, Medicaid, or other federal means-tested benefits. Because the Social Security Administration or the IRS may request that you verify these expenditures, keep good records.

Choosing an ABLE program

Only one ABLE account may be opened per beneficiary. Here are a few points to consider.

- Does your own state offer state tax breaks to residents who invest in that state's plan? Some states offer some type of income tax incentive such as a deduction for contributions.**
- What are the contribution requirements? Do you need to contribute a certain amount to open the account or maintain a certain balance? What is the lifetime contribution limit?
- What investment options does the plan offer?*
- What fees and expenses apply? Fees and expenses can vary widely among plans. Typical fees include monthly or annual maintenance fees, administrative fees, and investment-related fees.
- How easy is it to withdraw funds? Does the plan offer a debit or purchasing card that can be used to pay for expenses or automatic investing?

Do ABLE accounts replace special needs trusts or other planning tools?

The federal legislation that authorized ABLE accounts was clear that they were intended to supplement, but not supplant, benefits from other sources. An ABLE account is meant to be an additional tool — not the only tool — that can be used to save for future expenses.

Each planning tool has unique benefits and drawbacks. For example, ABLE accounts have certain tax advantages, and ABLE funds can be easily withdrawn. ABLE accounts also are generally simpler and less costly to open and maintain than trusts. Trusts incur up-front costs and often have ongoing administrative fees, and the use of trusts involves a complex web of tax rules and regulations. On the other hand, trusts also offer numerous advantages. Third-party special needs trusts can generally hold unlimited funds — no maximum contribution limit applies — and can be used for individuals whose disability began after age 26. In addition, these trusts are generally not subject to a Medicaid payback provision.

Special needs trusts and ABLE accounts have additional benefits and drawbacks, and other planning tools are available. Ultimately, you can choose whichever option best suits your needs.