

ESTATE PLANNING

Powerful Ideas: ABLE Accounts



Powerful Ideas: ABLÉ Accounts

An ABLÉ account is a special type of tax advantaged savings account designed to assist and accommodate people with disabilities. The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act) became law in December of 2014 and permits eligible individuals to save up to \$100,000 and pay disability related expenses from an ABLÉ account without losing their eligibility for government benefits. ABLÉ accounts function much like a cross between a first-party special needs trust, a Section 529 education savings account, and a checking account.

ABLE accounts share an advantage that self-settled special needs trust enjoy in that the assets do not disqualify its owner for public benefits, since the funds in the account do not count toward the asset or resource limits established by government benefit programs, such as Medicaid and Supplemental Security Income. Also, just like a self-settled special needs trust, the assets may be subject to governmental reimbursement of expenses upon the death of the ABLÉ account's owner. However, the two differ in that the expense to open an ABLÉ account is only a fraction of the cost it would take to have a special needs trust drafted.

ABLE accounts function like a Section 529 education savings account in that the assets grow tax free, may only be used for qualifying expenses, and are subject to contribution limits. Also, the qualifying expenses permitted include housing, which would normally count against the recipient. For those with modest incomes, ABLÉ account contributions may be eligible for the Retirement Savings Contributions Credit or Saver's Credit allowing for a partial tax credit. Only \$15,000 (in 2020), cumulatively, may be contributed annually to the ABLÉ account. However, an eligible person with special needs may contribute his or her earnings up to the federal poverty level guidelines (\$12,760 in 2020 for an individual) in addition to the annual contribution limit. A Section 529 account may be rolled over or transferred to an ABLÉ account; however, an owner may only have one ABLÉ account at a time and any amounts rolled over and the contributions are still subject to the \$15,000 cumulative annual limit. The provisions allowing ABLÉ account rollovers are due to sunset at the end of year 2025.

ABLE accounts function like a checking account in that the custodians of such plans provide statements showing and detailing expenses paid from the account, which greatly assists the owner for ease of administration and record keeping. If utilized with an eye toward that end, payments and the account's statements can be made to function as a record to document that all expenditures of the ABLÉ account owner were proper ones. Some states, such as Ohio, even permit a debit card that may be utilized in conjunction with the ABLÉ account, and eligible disabled persons may open an ABLÉ account in another state, if they choose.

ABLE account owners may accumulate over \$300,000 in the account, depending on the state's program structure parameters, but only \$100,000 of that amount would be exempt from public benefit asset or resource limits. The funds may be invested in a set of predetermined investment options that can produce a range of expected rates of return. A significant benefit of an ABLÉ account is that if an account owner ever exceeds the \$100,000 exemption limit, public benefits are merely suspended until the account drops back below the exceeded threshold. But keep in mind, the assets kept in the ABLÉ account may be subject to public benefit reimbursement claims and probate at the owner's death; although, some states, like California, have opted out of seeking reimbursement from ABLÉ accounts provided the owner resided in the state and utilized its ABLÉ account program.

Unfortunately, not all persons with disabilities may establish an ABLÉ account; to be eligible to open an ABLÉ account, the individual must have had a disability that had an onset prior to age 26. Employing an ABLÉ account in conjunction with other special needs planning tools may help to round out an effective and efficient overall plan.

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