

Special Needs Planning

ABLE accounts: Powerful planning tool.

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"Failing to plan is planning to fail."

This time-tested maxim used by financial professionals certainly applies—with sometimes disastrous consequences—for families that include a person with special needs.

Without purposeful planning to navigate the labyrinth of governmental regulations, the likelihood of tripping a provision that would disqualify a special needs individual for or from public benefits is rather high.

Even a well-meaning gift or inheritance from a loved one can create a whole host of problems for a person with special needs. However, tools exist that may help.

Overview

Enacted in 2014, the Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act permits eligible individuals to save up to \$100,000 to pay disability related expenses, without losing their eligibility for public benefits. The person's disability must have begun before age 26 to be eligible for an ABLE account, which enjoys tax-free growth but lacks any tax deduction for contributions.

Eligible disability expenses that may be paid from an ABLE account vary under each state's regulations, but usually include health, education, housing, transportation, assistive technology, services for personal support, financial, administrative, and legal services, and funeral and burial expenses.

Benefits

The following summarizes the primary benefits of using an ABLE account.

- **ROLLOVER ELIGIBLE.** A relatively recent expansion of the law permits §529 education savings accounts

to be rolled over or transferred into an ABLE account. Absent such a transfer, the 2018 cumulative annual contribution limit to an ABLE account is \$15,000 per year, which is adjusted annually for inflation and excludes the person's annual earned income, as long as it falls below the federal poverty level (\$12,060 in 2018) with no participation in an employer retirement plan.

- **ASSETS DISREGARDED.** Public benefit programs, such as Medicaid and Supplemental Security Income, do not include ABLE account assets in the calculation of asset or resource based limits for benefit eligibility. Also, if the account exceeded the \$100,000 ABLE limit, it would not disqualify the person but just suspend his or her benefits until the amount is reduced to within applicable limits.
- **SIMPLE INITIATION.** The ease and cost in establishing an ABLE account is another benefit. This is especially true when compared with

the costs of drafting, funding, and administering a special needs trust. ABLE accounts can be opened in states that have adopted them with varying annual service fees that often fall below \$100 annually, while the costs for obtaining and funding a well-drafted trust can exceed \$1,000.

- **BEQUEST FRIENDLY.** By using an ABLE account, a special needs individual who receives a modest gift or inheritance (less than \$15,000 in 2018) can avoid a protracted ordeal to receive the windfall, since disclaiming assets as a person with special needs is considered a disqualifying event under most state's statutes.
- **ACCOUNT FLEXIBILITY.** Flexibility and control are other perquisites of an ABLE account. The accounts can function much like a bank account, and some even permit a card that functions like a debit card. Many states permit nonresidents to establish ABLE accounts, so special





needs persons residing in states with slow acting legislatures can obtain an account from another state, with features and benefits best suited to their needs.

- **EXPENDITURE DOCUMENTATION.** Also, the funds in the ABLE account may be invested in a set of predetermined investment options that can produce a range of expected rates of return; however, an owner may only have one ABLE account at a time. Since the account can function like a bank account, if utilized with

an eye toward administration and record keeping, the account's statements can document that all expenditures were eligible.

Pitfalls

The major drawback or disadvantage of an ABLE account is that the funds remaining in the account at the death of the ABLE account's owner are subject to governmental reimbursement of expenses.

Summary

ABLE accounts are useful tools to address multiple issues that a family with a special needs person experiences. Used alone or paired with other special needs planning tools, ABLE accounts can help with financial and administrative burdens.

As always, a trusted financial professional is best able to provide up to date information about features and benefits ABLE accounts provide in your state.



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