

**Abstract:** The Achieving a Better Life Experience (ABLE) Act of 2014 created a tax-advantaged savings account for people who have a qualifying disability (or are blind) before age 26. Modeled after the well-known Section 529 college savings plan, ABLE accounts offer benefits but have limitations as well. This article looks at both.

## **ABLE accounts can help support the disabled**

The Achieving a Better Life Experience (ABLE) Act of 2014 created a tax-advantaged savings account for people who have a qualifying disability (or are blind) before age 26. Modeled after the well-known Section 529 college savings plan, ABLE accounts offer many benefits. But it's important to understand their limitations.

### **Tax and funding benefits**

Like Sec. 529 plans, state-sponsored ABLE accounts allow parents and other family and friends to make substantial cash contributions. Contributions aren't tax deductible, but accounts can grow tax-free, and earnings may be withdrawn free of federal income tax if they're used to pay qualified expenses. ABLE accounts can be established under any state ABLE program, regardless of where you or the disabled account beneficiary live.

In the case of a Sec. 529 plan, qualified expenses include college tuition, room and board, and certain other higher education expenses. For ABLE accounts, "qualified disability expenses" include a broad range of costs, such as health care, education, housing, transportation, employment training, assistive technology, personal support services, financial management, legal expenses, and funeral and burial expenses.

An ABLE account generally won't jeopardize the beneficiary's eligibility for means-tested government benefits, such as Medicaid or Supplemental Security Income (SSI). To qualify for these benefits, a person's resources must be limited to no more than \$2,000 in "countable assets."

Assets in an ABLE account aren't counted, with two exceptions: 1) Distributions used for housing expenses count, and 2) if the account balance exceeds \$100,000, the beneficiary's eligibility for SSI is suspended so long as the excess amount remains in the account.

### **Notable limitations**

ABLE accounts offer some attractive benefits, but they're far less generous than those offered by Sec. 529 plans. Maximum contributions to 529 plans vary from state to state, but they often reach as high as \$350,000 or more. The same maximum contribution limits generally apply to ABLE accounts, but practically speaking they're limited to \$100,000, given the impact on SSI benefits.

Like a 529 plan, an ABLE account allows investment changes only twice a year. But ABLE accounts also impose an annual limit on contributions equal to the annual gift tax exclusion (currently \$14,000). There's no annual limit on contributions to Sec. 529 plans.

ABLE accounts have other limitations and disadvantages as well. Unlike a Sec. 529 plan, an ABLE account doesn't allow the person who sets up the account to be the owner. Rather, the account's beneficiary is the owner.

However, a person with signature authority — such as a parent, legal guardian or power of attorney holder — can manage the account if the beneficiary is a minor or otherwise unable to manage the account. Nevertheless, contributions are irrevocable and the account's funders may not make withdrawals. The beneficiary can be changed to another disabled individual who's a family member of the designated beneficiary.

Finally, be aware that, when an ABLE account beneficiary dies, the state may claim reimbursement of its net Medicaid expenditures from any remaining balance.

### **Worth exploring**

If you have a child or relative with a disability in existence before age 26, it's worth exploring the feasibility of an ABLE account. Please contact our firm for more details.

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