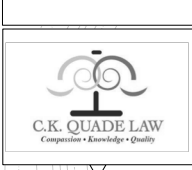


ABLE Accounts:
Eligibility, Creation, Contributions, Distributions, Limitations, and Strategies



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Why are ABLE Accounts a thing?

- Many government programs are means tested. SSI and Medicaid are two main programs.
- As a general rule, persons on these programs cannot have more than \$2,000 in assets.
- ABLE accounts allow *eligible* persons on these programs to save without worrying about going over the asset limit.
- Can be cheaper than a trust to open and administer.
- ABLE accounts are model on 529 College Saving Plans which states administer. Many states allow citizens of other states to open an account.

Eligibility

- A person is eligible to open an ABLÉ account if
 - They are currently receiving or otherwise entitled to SSI/SSDI and the individual was disabled before the age of 26.
- OR
- They attain a "disability certification" from a physician which has their diagnosis and states that the diagnoses results in a **marked and severe** limitation that has lasted or is expected to last more than 1 year and the individual was disabled before the age of 26.

Creation

- It is recommended that the future ABLÉ account holders go to the *National Able Resource Center* to compare different plans.
- Qualified Individuals can sign up and manage for all ABLÉ accounts online. Signing up is free.
- If qualified individuals cannot sign up or manage their account, three persons with signature authority can:
 - An Agent under a Power of Attorney.
 - An Parent
 - A Legal Guardian
- An eligible individual can have only one account.

Contributions

- Any person, including a trust, can contribute.
- The annual contribution limit is tied to the annual gift tax excision. In 2018, that is \$15,000.
- Contributions by third parties are not deductible for federal income tax purposes. Account owners who are below ascertain income can claim a savers credit.
- May receive a state income deduction or credit if the account holder resides in that state.
- If the account holder is working then he or she can contribute their income up or federal poverty line for a single individual.
- Rollovers
 - A college saving plan can be rolled into an ABLÉ account. The annual gift tax limitation applies.
 - An owner can switch ABLÉ accounts once every year. The limitation does not apply.

Distributions

- Income generated in a ABLÉ account are not subject to federal income tax.
- Distributions for **Qualified Disability Expenses** are tax exempt. Distributions for non-qualified expenses are taxable and subject to a penalty of 10 percent. This penalty does not apply after the death of the account holder.
- The IRS has yet to issue final regulations or audit an ABLÉ account holder.
- **Qualified Disability Expenses** : education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary under regulations and consistent with the purposes of this section.
- Includes basic living expenses

Limitations

- Funds over and above the 100,000 dollars are countable for SSI eligibility determination. SSI is reinstated once countable resources get below the limit.
- SSI counts money used for housing or Non ODE as a resource if the account holder retains that money after the month that the distribution was taken.
- There is a Medicaid payback once an account holder dies for expenditures after the account was created.
 - Look for possible state-federal conflict.

Strategies

- A Trustee of a supplemental or special needs trust can put in a set dollar amount into a ABLÉ account to
 - give the beneficiary more control or trust funds,
 - to pay for housing without incurring a penalty, or
 - to develop money management skills.
- Consider Structured distributions to ABLÉ account as part of a negligence settlement.
- Crowdfunding without incurring penalty.
- Avoid Questionable Distributions

Laws and Regulations

- 26 U.S. Code § 529A - Qualified ABLE programs
 - <https://www.law.cornell.edu/uscode/text/26/529A>
- IRS Proposed Regulations
 - <https://www.irs.gov/government-entities/federal-state-local-governments/able-accounts-tax-benefit-for-people-with-disabilities>
- SSA Program Operation Manual SI 01130.740
 - <https://secure.ssa.gov/poms.nsf/lnx/0501130740>
- IC 56-708
 - <https://legislature.idaho.gov/statutesrules/idstat/title56/56ch7/sect56-708/>
- SMD# 17-002
 - <https://www.medicaid.gov/federal-policy-guidance/downloads/smdl17002.pdf>

Additional Resources

- ABLE National Resource Center
 - <http://www.ablenrc.org>
- Idaho State Independent Living Center ABLE account page
 - <https://silc.idaho.gov/able-account>
