

# ABLE Act of 2014: Achieving a Better Life Experience

An introduction to the act and to ABLE accounts – how they work and why they're important

## WHAT IS THE ABLE ACT?

The ABLE Act – formally, the Stephen Beck Jr. Achieving a Better Life Experience Act of 2014 – was created to give individuals with disabilities and their families the opportunity to save for the future without limiting access to critical income, healthcare, food or housing assistance programs.

Before the bill was introduced, eligibility for these programs was limited to individuals who reported no more than \$2,000 in cash savings, retirement funds or other substantial items of value. This was a stipulation of Section 529 of the Internal Revenue Code of 1986 that people with disabilities and their advocates have long viewed as unfair and have worked to amend. With the ABLE Act, they've made great strides.

The act amends Section 529 to create a tax-free savings account, similar to 529 college savings plans, that enables individuals to save without affecting their eligibility for Social Security Income, Medicare or similar programs.<sup>1</sup> Contributions to the account are not tax deductible, but funds can grow tax-deferred inside the account and distributions made to cover “qualified disability expenses” – including medical and dental care, education and training, housing and transportation – are tax-free.



## KEY TAKEAWAYS

The ABLE Act creates state-sponsored, tax-free savings accounts for disability-related expenses.

The state-sponsored programs enable individuals with disabilities, as defined under IRC Section 529A, to save without affecting their eligibility for Social Security, Medicaid or other important public benefits.

Each state is responsible for establishing and operating an ABLE program. Approximately 42 states have passed legislation to support ABLE programs.

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## WHO IS ELIGIBLE?

Individuals are eligible for ABLE accounts if they:

- Are entitled to Social Security Act benefits based on blindness or disability that occurred prior to age 26.

or

- File a disability certificate with the IRS for the tax year. The certification must state that the individual is blind or has a physical or mental impairment that results in severe functional limitations. This impairment must have occurred before the age of 26 and must have lasted or be expected to last for at least 12 months<sup>2</sup> or can be expected to result in death.

The ABLE account owner must be the qualified individual and the account beneficiary. Each eligible individual can only have one account.

## WHO CONTRIBUTES?

Anyone can contribute to an ABLE account. Generally, contributions may not exceed the amount of the annual gift tax exclusion for that tax year. For 2019, that amount is \$15,000 and may be adjusted annually for inflation.<sup>3</sup> However, each plan has a maximum contribution or limit,<sup>2</sup> and regulations specify that any amount contributed in excess of the annual gift tax exclusion must be returned to the contributor. As with 529 college plans, some states may offer a state income tax benefit for using the individual's home state plan.

## RULES FOR DISTRIBUTION

As noted earlier, distributions from an ABLE account are tax-free if the money is used to pay for qualified disability expenses. Any amounts distributed in excess of those used to cover qualified expenses must be included in the individual's taxable income and will be subject to a 10% penalty. The 10% penalty will not apply if the distribution is on or after the death of the account beneficiary.

<sup>1</sup>ABLE account balances over \$100,000 are counted in means or resource tests and may result in the suspension of eligibility for Social Security Income benefits during any period in which the excess remains in the ABLE account.

<sup>2</sup>Dependent on legislation of the state in which the account is established.

<sup>3</sup>There is no opportunity for five-year forwarding for gift tax purposes.

<sup>4</sup>If the beneficiary's resident state paid for the beneficiary's Medicaid costs incurred after the account was opened, that state receives reimbursement of the balance of the account upon the beneficiary's death.

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## STATE IMPLEMENTATION

While the ABLE Act has passed at the federal level, it is up to the states to pass their own ABLE bills. So far, approximately 42 states have passed legislation to sponsor ABLE programs for their residents.

If it does not offer its own program, a state may choose to contract with another state to offer its eligible individuals the opportunity to open ABLE accounts. The Protecting Americans against Tax Hikes (PATH) Act passed in December 2015 allows consumers to select a plan sponsored by any state, making it possible for people to select a plan that is best suited to their needs.



### Are you in an ABLE state?

Click for a list of states that have passed ABLE legislation.

## KEEP IN MIND

When it comes to addressing the long-term cost of living with a disability, ABLE accounts do have some limitations, including restrictions on the size of contributions and the Medicaid payback provision.<sup>4</sup> So, ABLE accounts may be a good supplement, but not necessarily a replacement, to a special needs trust.

For more information on ABLE accounts and other ways to plan for a loved one's long-term needs, contact your financial advisor or visit [raymondjames.com](http://raymondjames.com) to find one near you.

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