

HOW ABLE ACCOUNTS FIT INTO YOUR ESTATE PLANNING NEEDS

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- ▶ What Are ABLE Accounts
- ▶ Who Qualifies
- ▶ What Expenses Qualify
- ▶ How Do ABLE Accounts Fit Into My Estate Planning Strategy
- ▶ Different Types of Trusts
- ▶ Maximizing the Benefits of Trusts and ABLE accounts

AGENDA

- ▶ Tax Preference Accounts for Individuals With Disabilities
- ▶ Federal Legislation passed authorizing states to create “ABLE” accounts in December of 2014. State legislation in Ohio passed in October of 2015. In Ohio, these accounts are referred to as STABLE accounts.
- ▶ Works Like 529 College Savings Account
 - Contributions are Post Tax
 - Earnings on the Accounts are Tax Free
 - Withdrawals are Tax Free as long as certain requirements are met
- ▶ Assets within an ABLE account do not affect Medicaid eligibility
- ▶ Legal Authority of the Account Belongs to the INDIVIDUAL. The “Authorized Legal Representative”, which can be a parent, legal guardian, or power of attorney, can have transactional control over the account funds.

ABLE ACCOUNTS: WHAT ARE THEY

- ▶ Anyone who is eligible for Social Security Disability (SSDI) or Social Security Income (SSI) Benefits
 - Disability must have occurred before the age of 26
- ▶ Anyone who files a disability certification with the IRS
- ▶ Alternatively, eligible individual could be anyone “certified” to have a “medically determinable” physical or mental impairment that began prior to age 26 which results in marked and severe functional limitations
 - Some individuals with serious mental illnesses may qualify

ELIGIBILITY FOR ABLE ACCOUNTS: WHO QUALIFIES?

- ▶ Education
- ▶ Transportation
- ▶ Employment Support
 - job related training
- ▶ Health Prevention and Wellness
 - premiums for health insurance
 - respite care
 - long term services and support
- ▶ Assistive Technology
- ▶ Miscellaneous Expenses
 - Home Improvement Modification
- ▶ Housing
 - YES but SSI benefits Potentially impacted

WHAT TYPES OF EXPENSES ARE ALLOWED?

- ▶ Medicaid Benefits (or any other Federal Benefit) Not Impacted
- ▶ SSI benefits SUSPENDED if account balance over \$100,000
- ▶ SSI Benefits affected if withdrawals occur for housing expenses (sometimes)

FEDERAL BENEFITS AND ABLE ACCOUNTS

- ▶ One account per beneficiary
- ▶ Maximum yearly contribution of \$14,000
- ▶ 10% additional tax on funds withdrawn for non-qualified expenses
- ▶ Maximum account value limited to \$414,000K
- ▶ SSI Benefits suspended if accounts exceeds \$100,000

RULES THAT APPLIES TO ABLE ACCOUNTS

- ▶ No impact with passing of parent or legal guardian since the account owner is the designated beneficiary
- ▶ Upon death of the ABLÉ beneficiary, pay total net amount of Medicaid expenses since inception of the ABLÉ account
 - state is a creditor, not beneficiary
- ▶ Remaining funds become part of the beneficiary's estate

FINAL DISPENSATION OF ABLÉ ACCOUNT

- ▶ \$100K limit and suspension of SSI
- ▶ Reduction of SSI payments for withdrawals made for room and board
- ▶ 10% penalty for non qualified expenses (as well as regular income tax)

LIMITATIONS OF ABLE ACCOUNTS

- ▶ An individual or an “Authorized Legal Representative” - parent, legal guardian, or the holder of a power of attorney can open an account. The Authorized legal representative can also help manage the STABLE Account for their loved one.
- ▶ Separate website to sign up for accounts. Check Ohio Treasurer’s website http://www.tos.ohio.gov/Ohio_ABLE for latest details.
- ▶ ABL accounts are NOW available to be open (starting June 2016) – first state in the nation to have accounts available

ESTABLISHING AN ABL ACCOUNT

- ▶ All contributions and distributions can be done electronically with the individual's bank account
- ▶ Distributions can be through the STABLE Card which is a loadable debit card.
- ▶ The STABLE Card can be used anywhere Mastercard is accepted

ACCOUNT MECHANICS

- ▶ 5 Types of Funds- Growth, Moderate Growth, Conservative Growth, Income Option and “Bank Safe”
- ▶ Investment Option selection will depend on the individual’s time horizon (when they intend to use the funds) and appetite for risk
- ▶ Funds Managed Through Vanguard
- ▶ Account Expenses
 - between .19% and .34% of “assets under management.”
 - \$2.50 per month charge for Ohio residents
- ▶ Individuals will be able to change their selection of options twice a year

INVESTMENT OPTIONS AND COSTS

- ▶ Option #1; Vanguard Life Strategy Growth Fund (VASGX)
 - ▶ -10 year annual growth; -4.9%; Since 1994; 7.7%
 - 80% stocks/20% bonds
- Option #2: Vanguard Life Strategy Moderate Growth (VSMGX)
 - 10 year annual growth; 5.0%; Since 1994 ; 7.5%
 - 60% stocks/40% bonds;
- Option #3: Vanguard Life Strategy Conservative Growth Fund (VSCGX)
 - 10 year annual growth; 4.8%; Since 1994; 6.9%
 - 40% stocks/60% bonds;
- Option #4; Vanguard Life Strategy Income Fund (VASIX)
 - 10 year annual growth; 4.6 % Since 1994; 6.4%
 - 20% stocks/80% bonds;
- Option # 5; “Banksafe” Option
 - 100% Funds protected by FDIC up to \$250,000
 - low rate of return, < 1% under current savings rates

INVESTMENT OPTIONS PART II

- ▶ Ohio Tax Deduction for ABLE Contributions! (not passed into law yet)
- ▶ Reporting of ABLE withdrawals done through individual's tax return
- ▶ Enforcement of tax penalties done by the IRS
 - income tax and penalty of 10% on earnings growth of account

TAXATION AND ENFORCEMENT

- ▶ ABLÉ accounts good first step in establishing an estate plan for your loved one
- ▶ Other Critical Considerations
 - Having a Will
 - Guardianship
 - Power of Attorney
- ▶ Establishing Trusts For Your Loved One

ABLE ACCOUNTS AND ESTATE PLANNING

Two Potential Types Needs Trusts

- ▶ **First Party Trust**= Funded with assets owned by disabled beneficiary
 - ▶ Must be created by the parent, grandparent or guardian
 - ▶ Disabled beneficiary must be under age of 65 at time trust is created.
 - ▶ Assets held within the trust do not impact a SSI or Medicaid eligibility
 - ▶ Distributions must be planned to avoid reduction of or disqualification for public assistance benefits
 - ▶ *Must contain a payback clause that requires any assets remaining in the trust upon the death of the beneficiary to be paid to Medicaid in an amount equal to the amount of the Medicaid benefits received by the beneficiary*
- ▶ **Third Party Trust** = Funded with assets owned by anyone other than the disabled beneficiary
 - ▶ Must contain appropriate language to avoid eligibility issues
 - ▶ No payback provisions required

CHARACTERISTICS OF SPECIAL NEEDS TRUSTS

▶ Three possible methods of Taxation

-Grantor Trust – All income, deductions, and credits generated by assets held in special needs trust are reported on the disabled beneficiary's person income tax return

-Non-Grantor Trust- The trust itself reports the income, deductions and credits. To the extent distributions are made from the trust, then the beneficiary may pay tax due to the distributions. To the extent distributions are not made, then the trust pays the tax.

-Qualified Disability Trust-Treated similar to a non grantor trust but a qualified disability trust is entitled to a personal exemption in the same amount as an individual receives on his or her personal tax return.

TRUST FEES AND TRUST TAXATION

Case: Susie holds job at Walmart and earns \$10K annually. She lives with parents at home. Her Parents have accumulated \$150K to pay for the needs of her daughter. How might Susie and her parents efficiently deal with their income and assets to best meet the needs of Susie?

Parents: Could consider donating \$14K annually to ABLÉ account up until \$100K is reached to minimize costs of managing that money. For assets over \$100K, the parents could put the money in a 3rd party trust. Note that for ABLÉ accounts the individual has full control over withdrawals on the account but does not for money in the trust.

Susie: could put her earnings (up to \$14K) in an ABLÉ account or “1st Party to Trust” to avoid Medicaid eligibility issues. Only \$14K per year however from all persons can be put annually into her account.

EXAMPLE OF HOW ABLÉ ACCOUNTS WOULD WORK ALONG SIDE OTHER TRUSTS

- ▶ **Medicaid Eligibility:** My son/daughter has \$10K in assets. Can I open up an ABLE account for them so they might qualify for Medicaid?
- ▶ **ABLE Account Control:** I plan on opening up an ABLE account for my son. He at a later date decides he wants to on a trip with the money. I don't think that is wise. Can I bar him from spending the money?

SOME COMMON QUESTIONS

- ▶ **ABLE Accounts and ROTH IRA Accounts: Differences and Similarities**
- ▶ **Savings Strategies for Families with Children with Disabilities**
- ▶ **Minimizing Taxes in estate planning for your loved one**
- ▶ **Costs, Taxes and Other Issues in Setting up Trusts**

OTHER ABLE RELATED TOPICS

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OTHER QUESTIONS ???