

ABLE: All you Want to Know About the New ABLE Accounts in PA

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AGENDA

What is ABLE

How ABLE accounts can help

Summary of Federal Law

Overview of Pennsylvania Law

Implementation in Pennsylvania

Commonly Asked Questions

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What is ABLE?

A savings program specifically designed for individuals with disabilities. It allows them to:

- Plan for a financially secure future
- Save to pay for disability-related expenses
- Have assets without losing federal and state benefits
- Receive significant federal and state tax advantages
- Be more financially independent

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Variety of Uses

ABLE will serve the diverse savings needs of individuals with disabilities and their families.

- Individuals with disabilities who have the ability to manage their own finances and want to save for:
 - basic-living expenses
 - specific purchases such as a specialized wheelchair or accessible van
 - long-term goals such as purchasing a house, or any other disability-related expenses
- Parents of minor children or incapacitated adults who want to save to cover their children's day-to-day or extraordinary expenses
- Parents who want to save for when they are no longer around to support their adult children with disabilities.

PA 529 ABLE saving options will be offered to meet the needs of each of these and most others.

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Federal Enabling Law

Enacted December 2014

- ❖ Recognizes **State** “qualified ABE programs”
- ❖ How states implement might vary
- ❖ Provides **federal** tax-advantages and benefit-protections to “eligible individuals”
- ❖ Enumerates “qualified disability expenses”

Proposed IRS regulations issued June 2015

- ❖ Specifies requirements for a State’s program to be “qualified”
- ❖ Encourages States to go forward without waiting for final regulations
- ❖ Could change

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Federal Requirements

“Eligible individual” for each tax year

1. Have a qualified disability:
entitled to Title II (SSDI) benefits,
entitled to Title XVI (SSI) benefits, or
have an equivalent disability and a “certification”
AND
2. Disability occurred before age 26

Recertification annually

- ❖ Satisfied if there is an “enforceable obligation” to report changes in condition

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Federal Requirements

“Disability Certification”:

Statement that individual qualifies – onset before 26 and has:

- ❖ Blindness OR
- ❖ Medically determinable physical or mental impairment AND
- ❖ Results in marked and severe functional limitations AND
- ❖ Is expected to result in death or last for 12 months.

Includes diagnosis:

- ❖ Written, related to impairment
- ❖ Signed by a physician who meets SSA criteria

IRS Notice/Regulations

- ❖ Allows certification to be a self-certification
- ❖ Doesn't need to be “filed.” Needs to be kept.

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Federal Requirements

“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

Proposed IRS regulations state includes “basic living expenses” 8

Federal Requirements

Other federal requirements/restrictions:

- ❖ Only one account per beneficiary/only one beneficiary per account
- ❖ Beneficiary is account owner; authorized signatory allowed
- ❖ Annual contribution limit = federal gift tax exclusion (\$14,000)
- ❖ Aggregate PA contribution limit: \$511,758
- ❖ Investment direction: 2 per calendar year
- ❖ Can't pledge as security
- ❖ Can rollover to another state's plan once in 12 months
- ❖ Can transfer to an eligible sibling
- ❖ Repayment of Medicaid IF a claim is filed by state Medicaid

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Federal Benefits

Tax Benefits:

- ❖ Contributions are after tax
- ❖ Earnings are not taxed while in the account
- ❖ Earnings are not taxed when used for "qualified disability expenses"
 - Do not have to match a withdrawal to an expense
 - Look at total withdrawals compared to total qualified expenses for the year
 - If withdrawals exceed expenses pay taxes on earnings
 - As ordinary income
 - And a 10% federal tax penalty (except after death)

Keep Documentation

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Federal Benefits

Other Federal Benefits:

- ❖ ABLE assets not counted in ANY federal means-tested benefits.
- ❖ Limited exclusion for SSI
 - Only up to maximum of \$100,000
 - Over \$100,000
 - Amount over is a counted asset
 - SSI benefits suspended. Not terminated
 - Doesn't impact Medicaid eligibility
 - Withdrawals for housing and non-qualified expenses

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Federal Benefits

Interaction with SSI

- ❖ Withdrawals for housing and non-qualified expenses
 - Can impact SSI benefits
 - Timing critical
 - If used in the same month the withdrawal is taken = no impact
 - If used in a subsequent month = may impact
- ❖ Importance for gifting
- ❖ Reporting by recipient to SSA
- ❖ Reporting by states to SSA
 - Account balance
 - Distribution

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Federal Benefits

Other Federal Benefits

- ❖ Bankruptcy protection (limited)
 - ❖ Debtor must be parent/grandparent of beneficiary
 - ❖ Debtor can't be the beneficiary
 - ❖ Only if account not pledged for credit (prohibited anyway)
 - ❖ Amount protected limited
 - No protection if contributed within a year before bankruptcy
 - \$6,225 if contributed between 1 and 5 years of filing
 - Full amount contribution more than 5 years before filing

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PA Enabling Law

PA law signed April 18, 2016

- ❖ Authorizes Treasury to create and maintain a qualified ABLE program
- ❖ Gives Treasury discretion to determine the details
- ❖ Mandates Treasury to administer the program to ensure that it meets federal requirements
 - Allows Treasury to adjust as federal law changes

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Pennsylvania Benefits

State Tax Benefits:

- ❖ Contributions are after tax
 - Addressed in HB 1319
- ❖ Earnings are not taxed while in the account
- ❖ Earnings are not taxed when used for “qualified disability expenses”
 - Non-qualified withdrawal earnings are subject PA income tax
 - No additional tax penalty
- ❖ Account assets (contributions and earning) not subject to PA inheritance tax

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Pennsylvania Benefits

Other PA Benefits:

- ❖ ABLE assets not counted in PA means-tested disability, medical assistance, other health, or student aid benefits
- ❖ Protected from attachment, levy or execution by creditor of beneficiary, account owner, or a contributor
- ❖ Fiduciary who opened an account for a minor or adult who lacked legal capacity retains fiduciary duty until he/she relinquishes it
- ❖ Treasury can close an account if in the best interest of the beneficiary, subject to a hearing

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Implementation in PA

- ❖ Interaction with stakeholder
- ❖ Goals:
 - Several different investment choices
 - Fees as low as possible while covering operating expenses
 - Ease of use
 - Minimal documentation requirements
- ❖ Requests for Proposals (RFP) issued
- ❖ Timeline: end of year

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Commonly Asked Questions

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Contact Presenters



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