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The Achieving a Better Life Experience (ABLE) Account

The Achieving a Better Life Experience Act was signed into federal law at the end of 2014, and Arizona's versions, HB 2388, was signed into law by the Governor on May 12, 2016, and will became effective on August 6, 2016. What does this legislation mean for people with disabilities, and for their families? How will you be able to use the accounts authorized by the ABLE Act?

The ABLE Act is loosely connected to Section 529 of the Internal Revenue Code. You might recognize that number- the prior law created very popular accounts for prepaid tuition. There is lots of information about 529 Plans, including the popular "Saving for College" websight. To better understand ABLE, it might make sense to first describe how 529 plans work.

529 Plans

There are dozens of 529 Plans available. Almost every state has adopted at least one 529 Plan (some states have more than one). They often look very much like mutual funds; you put your money into the account, it is managed by the administrator, and it grows along with the market (or the segment of the market utilized by your particular plan).

You can invest your money in a 529 Plan set up by a state other than yours, or where your prospective student lives. Not every state's plan allows out- of-state investments, but most do. There are also "Prepaid Tuition" plans available in many sates; they are just what the name implies, though usually the funds can be used for other colleg when the time comes (though there may be incentives to keep the money, and the student, at the predetermined college). You can set up a 529 Plan for, say, your child- and both sets of grandparents can set up separate accounts for the same student. The multiple plans for a given child can be different states, The maximum asset limit is set in each plan; if you make more than a $14,000 contribution to a plan for a given student in one year, you may have to file a federal gift tax return.

If you do set up a 529 Plan for a child or grandchild, and that prospective student dies, decides not to go to college, or gets a really good scholarship, you can change your beneficiary of your plan to another family member. You keep pretty impressive control over the plan- and yet it is not considered part of your estate for federal estate purposes.

Though you do not get any income tax deduction when you do set up a plan, any later withdrawals for qualified education expenses come out of the plan tax-free. That means that no one has to pay the income tax on the interest and investment income over the years the plan is in place, That's one of the best parts of a 529 Plan.

ABLE Accounts

The new ABLE Accounts will be similar to 529 Plans in a number of ways, but very different in others. In fact the ABLE Act creates a new section, right after Section 529, of the tax code. Its numbered as Section 529A, just to make the connection clearer. Here are some of the highlights of the new Section 529A:

- A person with a disability can only have an ABLE Account if they were disabled by Social Security standards by age 26.
- Each person with a disability can have just one ABLE Account
- An account can be set up and directly controlled by the beneficiary, the parent of a minor beneficiary, a guardian/conservator, or agent acting under a power of attorney.
- Contributions to an ABLE Account may not exceed $14,000 in a given year. That's total contributions. That figure is indexed to the maximum annual gift tax exclusion amount (though gift taxes are mostly irrelevant to ABLE Accounts), so it should go up to $15,000 in a year or two.
- The maximum size of an ABLE Account is $100,000. If the account grows to more than $100,000 the beneficiary will lose Supplemental Security Income (SSI) benefits- but not state Medicaid eligibility.
- When the ABLE beneficiary dies, remaining assets in the account go to the state Medicaid program which provided benefits during life (after payment of other pending bills, and limited to the amount of the Medicaid program actually paid for the beneficiary's care.)
- If ABLE Account funds are used to pay for "qualified disability expenses," there will be no

> income taxation on the interest or gain in value of the ABLE assets, and the expenditure will not be counted as income to the beneficiary. Categories for "qualified" expenditures include '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."

Arizona has enacted legislation implementing ABLE but has not yet established such an account but it is on the horizon. It's coming! In the meantime, several other states that have ABLE accounts available accept out-of-state beneficiaries. For the up-to-date information, check out the ABLE National Resource Center at the following link:
http://www.ablenrc.org/about/what-are-able-accounts.