# Special Needs Planning: ABLE Accounts

The **Achieving a Better Life Experience (ABLE) Act** was passed by Congress and signed into law in 2014. It is designed to help individuals and families use tax-free savings accounts to help the long-term disabled maintain their quality of life, without the loss of federal benefits if savings exceed certain limits.

The ABLE Act authorizes states to create an **ABLE Program** for the disabled for tax years **beginning after December 31, 2014**. ABLE Accounts contain the following features and benefits:

- The **earnings on contributions** to ABLE Accounts **will not be taxed** and the funds in ABLE Accounts **will not be considered** for the Supplemental Security Income (SSI) program, Medicaid and other federal means-tested benefits. If, however, the value of an ABLE Account exceeds $100,000, SSI benefits will be suspended, but not terminated.
- **To be eligible for an ABLE Account**, an individual must become blind or disabled before age 26 and (1) receive Social Security Disability Insurance (SSDI) or SSI or (2) file a disability certification as specified by IRS rules.
- **Any one**, including the disabled individual, **may establish an ABLE Account** for an eligible beneficiary. An eligible disabled individual is limited to **one ABLE Account** and total aggregate annual contributions to that account may not exceed the annual gift tax exemption ($15,000 in 2019). Since ABLE contributions are **treated as gifts** by the contributor for tax purposes, if a donor puts the maximum $15,000 in an ABLE Account in 2019, any other gifts to the beneficiary will trigger the requirement to file a gift tax return. No gift tax will be due in 2019, however, unless the donor has already made more than $11.4 million of lifetime taxable gifts. In addition, **Section 529 plan assets may be rolled over to an ABLE account**, up to the maximum annual gift tax exemption ($15,000 in 2019). Both accounts must have the same beneficiary or a member of the same family.
- **Contributions to an ABLE Account** will be made with after-tax dollars, but earnings on contributions will be tax-free and **distributions from the account** for qualified disability expenses **will not be considered taxable income** to either contributors or the eligible beneficiary.
- **Qualified disability expenses include** any expenses made for the benefit of the disabled beneficiary related to education, housing, transportation, job 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 and funeral and burial expenses.
- **Distributions used for nonqualified expenses** will be subject to income tax on the portion of the distribution attributable to earnings from the account, plus a 10% penalty.
- **Assets in an ABLE Account can be rolled over** without penalty into another ABLE Account for either the qualified beneficiary or any of the beneficiary's qualifying family members.
- **At the death of the qualified beneficiary**, it may be required that any assets remaining in an ABLE Account be used to reimburse a state Medicaid agency for the cost of benefits and services provided during the disabled beneficiary's lifetime. **As a result, an ABLE Account should not be considered a wealth accumulation mechanism**.