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Ken Berry, JD • Mar. 22, 2023



Thanks to a little-noticed law passed in 2014—the Achieving a Better Life Experience Act (ABLE) Act—a family can set up a tax-favored savings account for a disabled individual. Appropriately enough, these are referred to as “ABLE accounts.” Now the new SECURE Act 2.0 enacted at the end of 2022 extends this opportunity to more families.

Background: An ABLE account works pretty much like a Section 529 plan account for

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accounts.

New law change: SECURE Act 2.0 boosts the age threshold from age 26 by two decades to age 46. The change takes effect in 2026. This provision is expected to be especially beneficial to individuals with mental health issues, other disabling illnesses and veterans who become disabled after their mid-twenties.

If you meet the tax law requirements and are receiving Supplementary Security Income (SSI) and/or Medicaid benefits, you're automatically eligible to participate. One other key rule is that the money in the ABLE account won't count towards the \$2,000 limit on personal assets for these public benefits.

When total assets in the account exceed \$100,000, the beneficiary's SSI will be suspended until the balance drops below \$100,000. However, Medicaid eligibility will not be affected by the account's amount.

The disabled individual, friends and family members may make contributions to the account. But the annual limit for contributions is currently \$17,000, the same as the annual gift tax exclusion. (The limit is indexed for inflation in \$1,000 increments.) The total limit on contributions that can be made to an ABLE account over time is subject to the applicable state limit for Section 529 accounts, with certain modifications. In many states, this overall limit exceeds \$300,000.

For purposes of tax-free distributions, "qualified expenses" include those related to the beneficiary as a disabled individual. This includes the following:

- Education;
- Housing;
- Transportation;

- Employment training and support;

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plans, various investment options are available to participants.

Each participating state is responsible for establishing and operating its own ABLE program. A state may choose to contract with another state to offer its residents with a significant disability access to an ABLE account.

Another approach: Alternatively, a family may benefit from creating a special needs trust, which has similar characteristics to an ABLE account. Contact your professional advisors for details.

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