

# The Norton Tax Bulletin

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## ***ABLE Accounts for Disabled Persons***

Dear Clients, family and friends,

On Dec. 19, 2014, the President signed into law the Tax Increase Prevention Act of 2014 (TIPA, P.L. 113-295). This legislation included the Achieving a Better Life Experience Act of 2014 (ABLE Act), which provides for a new type of tax-advantaged account for disabled persons, an ABLE account.

The tax laws have long encouraged Americans to save for college for their kids and to save for their retirement, but for families of those with disabilities, there was no tax-advantaged way for them to save for those individuals. The recent tax law enacted at the end of 2014 contains an important new provision which changes that.

The new law, which applies for tax years beginning after December 31, 2014, allows states to create “Achieving a Better Life Experience” (ABLE) accounts, which are tax-free accounts that can be used to save for disability-related expenses. Here are the key features of ABLE accounts:

- . . . ABLE accounts can be created by individuals to support themselves or by families to support their dependents.
- . . . There is no federal taxation on funds held in an ABLE account. Assets can be accumulated, invested, grown and distributed free from federal taxes. Contributions to the accounts are made on an after-tax basis (i.e., contributions aren't deductible), but assets in the account grow tax free and are protected from tax as long as they are used to pay qualified expenses.
- . . . No federal tax benefits are provided for those who *contribute* to an ABLE account.
- . . . Money in an ABLE account can be withdrawn tax free if the money is used for disability-related expenses. Expenses qualify as disability related if they are for the benefit of an individual with a disability and are related to the disability. They include education; housing; transportation; employment support; health, prevention, and wellness costs; assistive technology and personal support services; and other expenses.
- . . . Distributions used for nonqualified expenses are subject to income tax on the portion of such distributions attributable to earnings from the account, plus a 10% penalty on that portion.
- . . . Each disabled person is limited to one ABLE account, and total annual contributions by all individuals to any one ABLE account can be made up to the gift tax exclusion amount (\$14,000 in 2015, adjusted annually for inflation). Aggregate contributions are subject to the State limit for education-related Section 529 accounts.
- . . . ABLE accounts can generally be rolled over only into another ABLE account for the same individual or into an ABLE account for a sibling who is also an eligible individual.
- . . . Eligible individuals must be blind or severely disabled, and must have become so before turning 26, based on marked and severe functional limitation or receipt of benefits under the Supplemental Security Income (SSI) or Social Security Disability

Insurance (DI) programs. An individual doesn't need to receive SSI or DI to open or maintain an ABLE account, nor does the ownership of an account confer eligibility for those programs.

- . . . ABLE accounts have no impact on Medicaid, but, in certain cases, SSI payments are suspended while a beneficiary maintains excess resources in an ABLE account. More specifically, the first \$100,000 in ABLE account balances is exempted from being counted toward the SSI program's \$2,000 individual resource limit. However, account distributions for housing expenses are counted as income for SSI purposes. Assuming the individual has no other assets, if the balance of an individual's ABLE account exceeds \$102,000, the individual is suspended, but not terminated, from eligibility for SSI benefits, but remains eligible for Medicaid.
- . . . Upon the death of an eligible individual, any amounts remaining in the account (after any reimbursements to Medicaid) will go to the deceased's estate or to a designated beneficiary and will be subject to income tax on investment earnings, but not to a penalty.
- . . . Contributions to an ABLE account by a parent or grandparent of a designated beneficiary are protected in bankruptcy. In order to be protected, ABLE account contributions must be made more than 365 days prior to the bankruptcy filing.

I hope this information is helpful. If you would like more details about these changes or any other aspect of the new law, please do not hesitate to contact me.

Very truly yours,

*Dick Norton*

*This newsletter is not intended or written by me to constitute written advice that you may rely upon to avoid penalties that may be imposed by any taxing authority. Selection of a tax entity may have considerations beyond simply its tax treatment. Therefore, I advise clients to always first consult with an attorney who is intimately familiar with business forms and their relevance to potential future tax and financial issues.*