

# HOW ABLE ACCOUNTS FIT INTO YOUR ESTATE PLANNING NEEDS

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- ▶ What Are ABLE Accounts
- ▶ Who Qualifies
- ▶ What Expenses Qualify
- ▶ How Do ABLE Accounts Fit Into My Estate Planning Strategy
- ▶ Different Types of Trusts
- ▶ Maximizing the Benefits of Trusts and ABLE accounts

# AGENDA

- ▶ Tax preference accounts for individuals with disabilities
- ▶ History
  - Federal legislation passed December of 2014.
  - State of Ohio legislation in Ohio passed in October of 2015.
  - In Ohio, these accounts are referred to as STABLE accounts.
  - In Ohio, accounts run through the Office of the Treasurer
- ▶ Works like 529 college savings account
  - Contributions are post tax
  - Earnings on the accounts are tax free
  - Withdrawals are Tax Free as long as certain requirements are met

ABLE ACCOUNTS: WHAT ARE THEY

- ▶ **Anyone who is eligible for Social Security Disability (SSDI) or Social Security Income (SSI) Benefits**
  - Disability must have occurred before the age of 26
- ▶ **Have a condition listed on the Social Security Administration's List of Compassionate Allowances Conditions**
- ▶ **Alternatively, eligible individual could be anyone "certified" to have a "medically determinable" physical or mental impairment that began prior to age 26 which results in marked and severe functional limitations**
  - Some individuals with serious mental illnesses may qualify
- ▶ **IRS Guidance**
  - Signed physician diagnosis

**ELIGIBILITY FOR ABLE ACCOUNTS:  
WHO QUALIFIES?**

- ▶ **Education**
- ▶ **Transportation**
- ▶ **Employment Support**
  - job related training
- ▶ **Health Prevention and Wellness**
  - premiums for health insurance
  - respite care
  - long term services and support
- ▶ **Assistive Technology**
- ▶ **Home Improvement Modification**
- ▶ **Housing**
  - Yes, but some limitations

WHAT TYPES OF EXPENSES ARE ALLOWED?

- ▶ Medicaid Benefits (or any other Federal Benefit) Not Impacted
- ▶ SSI benefits **SUSPENDED** if account balance over \$100,000
- ▶ Beneficiary's own wages still count as income for SSI purposes even if wages are contributed to an ABLE account
- ▶ SSI Benefits affected if withdrawals occur for housing expenses (sometimes)

## FEDERAL BENEFITS AND ABLE ACCOUNTS

- ▶ One account per beneficiary
- ▶ Maximum yearly contribution of \$14,000
- ▶ 10% additional tax on funds withdrawn for non-qualified expenses
- ▶ Maximum account value limited to \$414,000K
- ▶ SSI Benefits suspended if accounts exceeds \$100,000

## RULES THAT APPLIES TO ABLE ACCOUNTS

- ▶ Contributions: \$10K
- ▶ Investment Earnings: \$40K
- ▶ Total Account: \$50K

“Withdrawal of \$50K for “Non Qualified” Expense

- ▶ Income tax on \$40K
- ▶ Tax Penalty:  $\$40K * .10 = \$4K$
- ▶ No tax or penalty \$10K contribution

CALCULATION OF TAXES AND PENALTY  
FOR NON QUALIFIED EXPENSES



- ▶ No impact with passing of parent or legal guardian since the account owner is the designated beneficiary
- ▶ Upon death of the ABLE beneficiary, pay total net amount of Medicaid expenses since inception of the ABLE account
  - state is a creditor, not beneficiary
- ▶ Remaining funds become part of the beneficiary's estate

## FINAL DISPENSATION OF ABLE ACCOUNT

- ▶ An individual or an “Authorized Legal Representative” - parent, legal guardian, or the holder of a power of attorney can open an account. The Authorized legal representative can also help manage the STABLE Account for their loved one.
- ▶ Separate website to sign up for accounts. Check Ohio Treasurer’s website <http://www.stableaccount.com> for latest details.
- ▶ ABLE accounts are NOW available to be open (starting June 2016) – first state in the nation to have accounts available

## ESTABLISHING AN ABLE ACCOUNT

- ▶ All contributions and distributions can be done electronically through the individual's account online at the STABLE account website
- ▶ Distributions can be through the STABLE Card which is a loadable debit card.
- ▶ Distributions can also be made through an electronic funds transfer to a personal bank account

## ACCOUNT MECHANICS

- ▶ Loadable prepaid debit card
- ▶ The Authorized Legal Representative can control funds available to the individual through monies put onto the STABLE card
- ▶ You can not overdraft on your STABLE CARD!
  - if you overdraw, your transaction will be declined
- The Balance on your STABLE Card is FDIC insured
- Great way to track and manage expenses

## THE STABLE CARD

- ▶ 5 Types of Funds- Growth, Moderate Growth, Conservative Growth, Income Option and “Bank Safe”
- ▶ Investment Option selection will depend on the individual’s time horizon (when they intend to use the funds) and appetite for risk
- ▶ Investment Funds Managed Through Vanguard
- ▶ Account Expenses
  - between .19% and .34% of “assets under management.”
  - \$2.50 per month charge for Ohio residents
- ▶ Individuals will be able to change their selection of options twice a year

## INVESTMENT OPTIONS AND COSTS

- **Option #1; Vanguard Life Strategy Growth Fund (VASGX) ; 80% stocks/20% bonds**
  - 10 year annual growth; -4.9%; Since 1994; 7.7%
- **Option #2: Vanguard Life Strategy Moderate Growth (VSMGX) ; 60% stocks/40% bonds;**
  - 10 year annual growth; 5.0%; Since 1994 ; 7.5%
- **Option #3: Vanguard Life Strategy Conservative Growth Fund (VSCGX); 40% stocks/60% bonds;**
  - 10 year annual growth; 4.8%; Since 1994; 6.9%
- **Option #4; Vanguard Life Strategy Income Fund (VASIX); 20% stocks/80% bonds;**
  - 10 year annual growth; 4.6 % Since 1994; 6.4%
- **Option # 5; “Banksafe” Option;**
  - 100% Funds protected by FDIC up to \$250,000
  - low rate of return, < 1% under current savings rates

## INVESTMENT OPTIONS PART II

- ▶ Ohio Tax Deduction for ABLE Contributions! (not passed into law yet)
- ▶ Reporting of ABLE withdrawals done through individual's tax return
- ▶ Enforcement of tax penalties done by the IRS
  - income tax and penalty of 10% on earnings growth of account

## TAXATION AND ENFORCEMENT

- ▶ ABLE accounts good first step in establishing an estate plan for your loved one
- ▶ Other Critical Considerations
  - Having a Will
  - Guardianship
  - Power of Attorney
- ▶ Establishing Trusts For Your Loved One

# ABLE ACCOUNTS AND ESTATE PLANNING



## Two Potential Types Needs Trusts

- **First Party Trust= Funded with assets owned by disabled beneficiary**
  - ▶ Must be created by the parent, grandparent or guardian
  - ▶ Disabled beneficiary must be under age of 65 at time trust is created.
  - ▶ Assets held within the trust do not impact a SSI or Medicaid eligibility
  - ▶ Distributions must be planned to avoid reduction of or disqualification for public assistance benefits
  - ▶ *Must contain a payback clause that requires any assets remaining in the trust upon the death of the beneficiary to be paid to Medicaid in an amount equal to the amount of the Medicaid benefits received by the beneficiary*
- ▶ **Third Party Trust = Funded with assets owned by anyone other than the disabled beneficiary**
  - ▶ Must contain appropriate language to avoid eligibility issues
  - ▶ No payback provisions required

CHARACTERISTICS OF SPECIAL NEEDS TRUSTS

## Three possible methods of Taxation

- **Grantor Trust:** All income, deductions, and credits generated by assets held in special needs trust are reported on the disabled beneficiary's person income tax return
- **Non-Grantor Trust:** The trust itself reports the income, deductions and credits. To the extent distributions are made from the trust, then the beneficiary may pay tax due to the distributions. To the extent distributions are not made, then the trust pays the tax.
- **Qualified Disability Trust:** Treated similar to a non grantor trust but a qualified disability trust is entitled to a personal exemption in the same amount as an individual receives on his or her personal tax return.

TRUST FEES AND TRUST TAXATION

Case: Susie holds job at Walmart and earns \$10K annually. She lives with parents at home. Her Parents have accumulated \$150K to pay for the needs of her daughter. How might Susie and her parents efficiently deal with their income and assets to best meet the needs of Susie?

Parents: Could consider donating \$14K annually to ABLÉ account up until \$100K is reached to minimize costs of managing that money. For assets over \$100K, the parents could put the money in a 3<sup>rd</sup> party trust. Note that for ABLÉ accounts the individual has full control over withdrawals on the account but does not for money in the trust.

Susie: could put her earnings (up to \$14K) in an ABLÉ account or “1<sup>st</sup> Party to Trust” to avoid Medicaid eligibility issues. Only \$14K per year however from all persons can be put annually into her account.

EXAMPLE OF HOW ABLÉ ACCOUNTS  
WOULD WORK ALONG SIDE OTHER TRUSTS

- ▶ **Medicaid Eligibility:** My son/daughter has \$10K in assets. Can I open up an ABLE account for them so they might qualify for Medicaid?
- ▶ **ABLE Account Control:** I plan on opening up an ABLE account for my son. He at a later date decides he wants to on a trip with the money. I don't think that is wise. Can I bar him from spending the money?
- ▶ **Qualifying Conditions:** My son/daughter's condition is not listed on the STABLE account website. Can they still qualify to set up and ABL account?

## SOME COMMON QUESTIONS

- ▶ ABLER Accounts and ROTH IRA Accounts: Differences and Similarities
- ▶ Savings Strategies for Families with Children with Disabilities
- ▶ Minimizing Taxes in estate planning for your loved one
- ▶ Costs, Taxes and Other Issues in Setting up Trusts

OTHER ABLE RELATED TOPICS

A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, set against the blue background.

- **STABLE Customer Service; 1-800-439-1653**
  - Call Center Hours 9a -6p EST
  - Email: [team@stableaccount.com](mailto:team@stableaccount.com)
- **STABLE Website: [Stableaccount.com](http://Stableaccount.com)**
- **STABLE Director: [Juliana.crist@tos.ohio.gov](mailto:Juliana.crist@tos.ohio.gov)**

STATE OF OHIO RESOURCES

A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, set against a blue background.

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OTHER QUESTIONS ???