ABLE Act Designed to Promote Health, Independence, Quality of Life for Individuals with Disabilities

Congress passed the Achieving a Better Life Experience Act of 2014 (ABLE Act) permitting the establishment of tax-favored savings accounts for the benefit of individuals whose disability occurred prior to age 26. Under current law, individuals with disabilities face significant barriers to finding and holding employment, living independently and saving for the future because their access to government benefits can be lost once they establish a minimum level of savings and income. The ABLE Act is designed to promote the health, independence and quality of life of individuals with disabilities by allowing families to fund an account in which such an individual can secure funding for disability-related expenses that will supplement, but not supplant, benefits provided through private insurance, Medicaid, Supplemental Security Income (SSI), the beneficiary's employment and other sources.

Any contributor - such as a family member, a friend, or the disabled person - can establish an ABLE account for an eligible beneficiary. An eligible beneficiary can have only one ABLE account, which must be established in the state in which he or she resides; however, multiple family members may contribute to such an account. An eligible beneficiary would be a child who meets the SSI program's disability standard for children or an adult who meets the SSI program's disability standard for adults, provided that the adult's disability occurred prior to age 26. Total annual contributions to ABLE accounts are restricted to the annual gift tax exclusion, currently $14,000 in 2015.

By amending Section 529 of the Internal Revenue Code, Congress has provided tax incentives by exempting accounts under a qualified ABLE Program from taxation, thereby further encouraging family members to establish and fund such accounts. Earnings on an ABLE account and distributions from the account for "qualified disability expenses" would not count as taxable income of the contributor or the eligible beneficiary. A "qualified disability expense" is defined as any expenses related to the eligible beneficiary's disability, which are made for the benefit of an eligible beneficiary, including the following expenses: Education, housing, transportation, employment training and support, helpful 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, and any other expenses approved by the Secretary of the Treasury under regulations. If distributions exceed the "qualified disability expenses" of the beneficiary, the excess distribution will be counted as income.

Additionally, assets in an ABLE account and distributions from the account for "qualified disability expenses" would be disregarded when determining the qualified beneficiary's eligibility for most federal means-tested benefits. However, for SSI, only the first $100,000 in ABLE accounts would be exempted from the SSI $2,000 individual resource limit. If an ABLE account exceeds $100,000, the beneficiary would be suspended from eligibility for SSI benefits and no longer receive monthly income. However, the beneficiary would continue to be eligible for Medicaid. Any assets remaining in an ABLE account upon the death of the qualified beneficiary could be used to reimburse a state Medicaid agency for payments it made on behalf of the beneficiary.

While the ABLE Act took effect Jan. 1, 2015, it is anticipated it will take some time for the states to establish ABLE Programs.