10 THINGS YOU SHOULD KNOW…

1 What is an ABLE account?

ABLE Accounts, which are tax-advantaged savings accounts for individuals with disabilities and their families, were created as a result of the passage of the Stephen Beck Jr. Achieving a Better Life Experience Act of 2014 or better known as the ABLE Act. The beneficiary of the account is the account owner, and income earned by the accounts will not be taxed. Contributions to the account, which can be made by any person (the account beneficiary, family, friends Special Needs Trust or Pooled Trust), must be made using post-taxed dollars and will not be tax deductible for purposes of federal taxes; however, some states may allow for state income tax deductions for contributions made to an ABLE account.

2 Why the need for ABLE accounts?

Millions of individuals with disabilities and their families depend on a wide variety of public benefits for income, health care and food and housing assistance. Eligibility for these public benefits (SSI, SNAP, Medicaid) require meeting a means/resource test that restricts eligibility to individuals who report less than $2,000 in cash savings, retirement funds and other items of significant value. To remain eligible for these public benefits, an individual must remain poor. For the first time in public policy, the ABLE Act recognizes the extra and significant costs of living with a disability. These include costs related to raising a child with significant disabilities or a working-age adult with disabilities, accessible housing and transportation, personal assistance services, assistive technology and health care not covered by insurance, Medicaid or Medicare. For the first time, eligible individuals and their families will be allowed to establish ABLE savings accounts that will largely not affect their eligibility for SSI, Medicaid and means-tested programs such as FAFSA, HUD and SNAP/food stamp benefits.
The legislation explains further that an ABLE account will, with private savings, “secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, Medicaid, SSI, the beneficiary’s employment and other sources.”

3 Am I eligible for an ABLE account?

The ABLE Act limits eligibility to individuals with disabilities with an age of onset of disability before turning 26 years of age. If you meet this age requirement and are also receiving benefits under SSI and/or SSDI, you are automatically eligible to establish an ABLE account. If you are not a recipient of SSI and/or SSDI but still meet the age of onset disability requirement, you could still be eligible to open an ABLE account if you meet Social Security’s definition and criteria regarding significant functional limitations and receive a letter of disability certification from a licensed physician, a M.D. or D.O. You do not have to be younger than 26 to be eligible for an ABLE account. You can be over the age of 26 but must have had an age of onset before your 26th birthday.

There is proposed legislation into congress regarding age adjustment, requesting that the age of onset be extended to include individuals who have a significant disability with onset prior to age 46. Progress on this bill is included in the ABLE NRC newsletter.

4 Are there limits to how much money can be put in an ABLE account?

The total annual contributions by all participating individuals, including family and friends, for a single tax year is $15,000. The amount may be adjusted periodically to account for inflation. Under current tax law, $15,000 is the maximum amount that individuals can make as a gift to someone else and not report the gift to the IRS (gift tax exclusion). The total limit over time that could be made to an ABLE account will be subject to the individual state and their limit for education-related 529 savings accounts. States have set limits for total allowable ABLE savings. State ABLE limits range from $235,000 to $529,000. In consideration of the annual contribution limit per calendar year, accounts may reach the state limit over time. However, for individuals with disabilities who are recipients of SSI, the ABLE Act sets some further limitations. The first $100,000 in ABLE accounts would be exempted from the SSI $2,000 individual resource limit. If and when an ABLE account exceeds $100,000, the beneficiary's SSI cash benefit would be suspended until such time as the account falls back below $100,000. It is important to note that while the beneficiary's eligibility for the SSI cash benefit is suspended, this has no effect on their ability to receive or be eligible to receive medical assistance through Medicaid. Additionally, upon the death of the beneficiary, the state in which the beneficiary lived may file a claim to all or a portion of the funds in the account equal to the amount in which the state spent on the beneficiary through their state Medicaid program. This is commonly known as the "Medicaid Payback" provision and the claim could recoup Medicaid-related expenses from the time the account was open, subject to federal and state probate laws.

An employed ABLE account owner who does not participate in an employer sponsored retirement account make an additional contribution up to the lesser of: (1) the ABLE account owner's compensation for the tax year, or (2) the poverty line amount of $12,490 (2020) in the continental U.S., $14,380 in Hawaii and $15,600 in Alaska.

5 Which expenses are allowed by ABLE accounts?

A "qualified disability expense" means any expense related to the designated beneficiary as a result of living a life with disabilities. These may include education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses which help improve health, independence, and/or quality of life.

6 Can I have more than one ABLE account?

The ABLE Act limits the opportunity to one ABLE account per eligible individual.

7 Do I have to wait for my state to establish a program before opening an account?

No. While the original law passed in 2014 did stipulate that an individual had to open an account in their state of residency, this provision was eliminated by Congress in 2015. This means that regardless of where you might live and whether or not your state has decided to establish an ABLE program, you are free to enroll in any state's program provided that the program is accepting out-of-state residents. To determine which state ABLE programs are accepting out-of-state residents, please refer to the individual state pages.

8 Will states offer options to invest the savings contributed to an ABLE account?

Like state 529 college savings plans, states do offer qualified individuals and families multiple options to establish ABLE accounts with varied investment strategies. Each individual has the opportunity to assess possible future needs and costs over time, and to assess their risk tolerance for possible future investment strategies to grow their savings. ABLE account owners are limited, by the ABLE Act, to change the way their money is invested in the account up to two times per year.

9 How is an ABLE account different than a special needs or pooled trust?

An ABLE Account will provide more choice and control for the beneficiary and family. Cost of establishing an account will likely be considerably less than either a Special Needs Trust (SNT) or Pooled Income Trust. With an ABLE account, account owners will have the ability to control their funds and, if circumstances change, still have other options available to them. Determining which option is the most appropriate will depend upon individual circumstances. For many families, the ABLE account will be a significant and viable option in addition to, rather than instead of, a Trust program. For more information, the webinar on ABLE Accounts and Special Needs Trusts is archived on our website along with its slides and transcript.

10 How will I know which state ABLE program is right for me?

As of January 2018, there were over 40 ABLE programs nationwide inviting eligible individuals to open an ABLE account, most of which were enrolling individuals regardless of their state of residence. When comparing State ABLE programs, you may want to consider the following questions in order to find a program that best meets your needs:

Opening an Account – What documentation will an ABLE program require from you to open an account? Is there a minimum contribution to open an ABLE account? Is there a fee to open an account and, if so, how much is that fee?
Maintaining the Account and Fees – Is there a required minimum contribution to your account? If so, what is the amount? Are the fees front-end loaded or are they reduced if you leave your funds invested for several years? Are there restrictions on how often you can withdraw funds from your account?

Investment Opportunities – What are the investment options the state ABLE program offers? Are the options likely to meet your needs for limiting risk with the growth of your contributed dollars to the ABLE account? Does the program offer any unique or value-added program elements to help you save, contribute to your account, grow the account and manage your invested dollars? Does the state program offer any unique or value-added program elements (such as a match or rewards program, financial literacy info or program for beneficiaries) to help you save, contribute to your account, grow the account and manage your invested dollars? If so, what is it?

Unique to Your State – Does your state have a program and, if so, do they offer a state income tax for contributions to their account? Is there a “debit card/purchasing card” available with the program? Are there added costs to this?
For a more detailed understanding of how you can begin to compare programs and for things to think about when preparing to open an ABLE account, visit Becoming ABLE Ready.