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# WELCOME!





**NATIONAL RESOURCE CENTER**  
ACHIEVING A BETTER LIFE EXPERIENCE ACT



# ABLE, the IRS and TAXES - What you Need to Know

Thursday, February 25th, 2021

2:00 pm - 3:15 pm ET

The ABLE National Resource Center is funded through a grant from Prudential.



# The ABLE National Resource Center

The **ABLE National Resource Center (ABLE NRC)** is the leading, comprehensive source of objective, independent information about federal- and state-related ABLE programs and activities, including guidance on tax-advantaged ABLE savings accounts.

**Our mission** is to educate, promote and support the positive impact ABLE can make on the lives of millions of Americans with disabilities and their families.

Our pioneering work in this area and subject-matter expertise make us the foremost authority on topics related to the Achieving a Better Life Experience (ABLE) Act, ABLE accounts, state ABLE programs, ABLE-related policy developments and comprehensive integration of ABLE and financial capability strategies for people with disabilities into public service delivery systems.

[www.ablenrc.org](http://www.ablenrc.org)

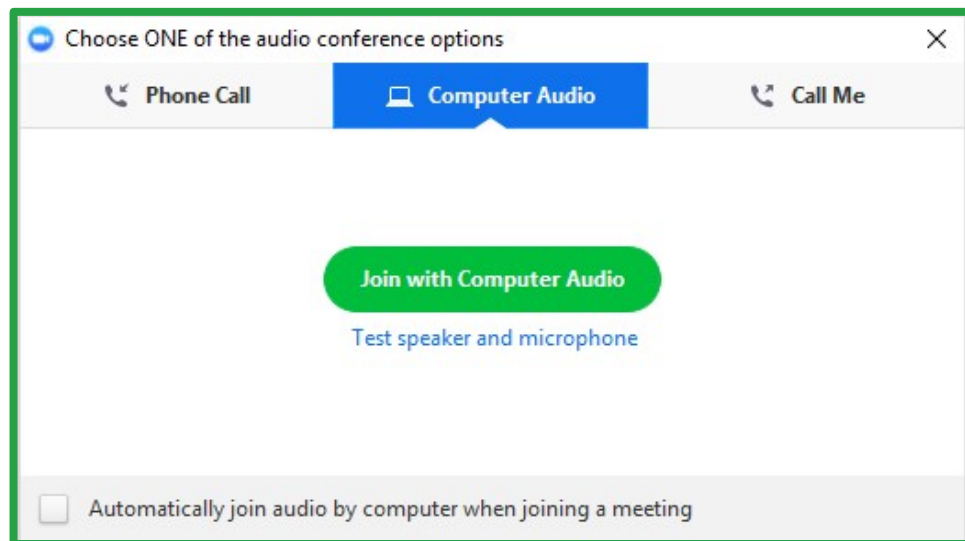


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# Facilitator and Presenters

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# Objectives

The Stephen Beck Jr. Achieving a Better Life Experience Act or ABLE Act was passed by Congress in 2014. ABLE accounts are tax advantaged section 529A accounts under the Internal Revenue Service (IRS) tax code and the IRS has provided guidance related to ABLE accounts. Today's webinar will help you maximize your ABLE savings, qualify for tax credits which may result in tax savings, and access free tax preparation services.

## **This webinar will provide:**

- An introduction to IRS ABLE final regulations issued 11/19/2020;
- A review of tax incentives and strategies to increase ABLE savings;
- Information about free tax filing options.



# IRS and ABLE



# IRS ABLE Final Regulations Introduction

**Don Dill**

IRS Senior Tax Analyst

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# IRS ABLE Final Regulations



# NEW! IRS NOTICE OF FINAL REGULATIONS

IRS published final ABLE regulations on October 2, 2020, that provided guidance to ABLE plans and clarified comments received on the proposed regulations. The final regulations:

- Provide a priority listing of who may open an ABLE account, what documentation is required and what records must be kept on file by ABLE account owners;
- Allow ABLE plans the option of using sub-accounts with different signatory or co-signatories which can be used for better management and control of different types of expenditures or distributions;
- Allow ABLE plans two years to make changes to become compliant with the final regulations. As of today, ABLE plans may not have made all changes.



# What Is an ABLE Account and Who Is Eligible?

- An ABLE account is a Section 529A tax-advantaged savings and investment account owned by a person who has a Social Security number or tax filing I.D. and has a disability or blindness;
  - With an onset of disability *before age 26*, **AND**
  - Receives Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI) benefits, **OR**
  - Self-certifies that they have a written and signed disability certification from a qualifying physician.



# New! ABLER Eligibility

- Permits a self-certification of eligibility that the ABLER account owner, or the person's agent under a power of attorney or a parent or legal guardian has a **signed physician's diagnosis that is kept on file** and will be provided to the ABLER program or the IRS upon request;
- *Newly clarified!* The term "**eligible individual**" includes those individuals whose SSA entitlement to benefits was suspended due to excess income or resources;
- *Newly clarified!* The standard of disability eligibility is applied without regard to either the individual's age or whether the individual is engaged in substantial gainful activity.



# New! Disability Certification

- The disability certification may be signed by a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine and, for some purposes, a doctor of podiatric medicine, a doctor of optometry or a chiropractor, indicating the disability onset occurred prior to age 26.
  - They may not be signed by a licensed psychologist, clinical therapist or certified vocational rehabilitation counselor .
- Sample Disability Certification:

<https://www.ablenrc.org/wp-content/uploads/2020/10/spt-able-disability-certification.pdf>





# New! Priority of Order for Opening an ABLER Account

- Eligible individual with a disability;
- Person selected by the eligible ABLER account owner (note: An eligible individual with legal capacity may delegate responsibility for another person to establish, or to serve as the person with signature authority over the account;)
- Person's agent under a power of attorney, conservator or legal guardian;
- Spouse, parent, sibling or grandparent;
- Representative payee (individual or organization). Representative payees are subject to all applicable SSA rules.

\*A person may self-certify that they are authorized to open the ABLER account and there is no other person with higher priority to establish the account and an ABLER plan can accept the self-certification.



# New! ABLÉ Owner Delegation of Authority

- An eligible individual with legal capacity may delegate signature authority over the ABLÉ account to any other person. The eligible individual may remove and replace from time to time the individual with signature authority and name a successor signatory;
- The regulations also allow a person with signature authority to name a successor signatory, consistent with the priority of order rule, if the ABLÉ account owner lacks the legal capacity to do so.



## *New!* Establishment of Sub-Accounts (Slide 1 of 2)

- A qualified ABLE program **may** provide an ABLE account with the option to use multiple sub-accounts as part of the one allowable ABLE account;
- The person with signature authority over the ABLE account may transfer all or a portion of the funds in the ABLE account to one or more of the sub-accounts, and may close one or more of the sub-accounts.
- Each sub-account may have a different person with signature authority over that sub-account.



# *New!* Establishment of Sub-Accounts (Slide 2 of 2)

## What this means to you:

Sub-accounts allow controlled access to the funds in one or more sub-accounts which can be set up for specific purposes or to allow time to teach money management skills and budgeting.



# New! ABLE Contribution Limits (Slide 1 of 2)

- \$15,000 from all sources within a calendar year;
- ABLE account owners who work and do not have contributions made to a retirement plan for the tax year may make additional contributions from their **earnings or other income**. The amount is limited to whichever is less:  
ABLE account owners earnings for that tax year OR:
  - **\$12,760 if you live in the continental U.S.A.**
  - **\$15,950 if you live Alaska**
  - **\$14,680 if you live in Hawaii.**



## *New!* ABLE Contribution Limits (Slide 2 of 2)

### What this means to you:

If you work and do not have an employer-sponsored retirement plan and make less than \$12,760, you can put all of your wages into your ABLE account. This is in addition to the \$15,000 annual contribution limit from all sources.

*(Up to an additional \$15,950 if you live Alaska or \$14,680 if you live in Hawaii)*



## ABLE Contributions (Slide 1 of 2)

- ABLE contributions may be made by any person including a corporation or employer. They may be made in the form of cash, check, money order, credit card payment and/or after-tax payroll deductions;
- Contributions made by an employer to the account of its employee or of a family member of the employee are subject to the rules governing taxation of compensation;
- Contributions to an ABLE account may be made by any person and by “trusts and tax-exempt organizations.”

## ABLE Contributions (Slide 2 of 2)

### What this means to you:

Special needs trusts and pooled trusts are taxed at a high rate. It may be an advantage to discuss transfers from these accounts directly into an ABLE account for qualified disability expenses.





## 529 Rollover to ABLE (Slide 1 of 2)

- Between December 22, 2017, and before January 1, 2026, a 529 qualified tuition plan owned by the beneficiary of the 529 plan or a member of that beneficiary's family may be rolled over to an ABLE account with no federal tax impact. The rollover must occur within 60 days of the distribution.
- These rollovers are subject to the annual contribution limit of \$15,000 for ABLE accounts.



## 529 Rollover to ABLE (Slide 2 of 2)

### What this means to you:

If you have both an ABLE and a 529 account, you may wish to consider a rollover. The expenses permitted under a 529 ABLE account are more broad than those allowable under a 529 qualified tuition program.



## ABLE To ABLE Rollover or Transfer (Slide 1 of 2)

- If an ABLE account owner chooses to move the account to another state ABLE program, they can move the entire amount through a rollover once every 12 months. If the program permits, funds can move from one ABLE account to another through a direct program to program transfer.
- During the ABLE account owner's lifetime, all or a portion of the ABLE account may be rolled over to another eligible individual such as a sibling, step-sibling or half-sibling of the ABLE account owner.

## ABLE To ABLE Rollover or Transfer (Slide 2 of 2)

### What this means to you:

Amounts distributed from the ABLE account and rolled over within 60 days to another ABLE account are not included in gross income.



# Qualified Disability Expenses (Slide 1 of 2)

- A qualified disability expense (QDE) is any expense related to the account owner as a result of living a life with disabilities that helps maintain or improve health, independence or quality of life.
- Categories are intentionally broad and include examples such as education, housing, food, transportation, health care and more.
- As long as withdrawals are spent on QDEs, ABLE account growth is tax free.



## Qualified Disability Expenses (Slide 2 of 2)

**What this means to you:**

Some QDEs may also qualify as taxable deductions for the ABLE account owner. This could lower your taxable income!

[2020 IRS Publication 907](#) and [2020 IRS Publication 502](#).



# Non-Qualified ABLE Distributions (Slide 1 of 2)

- If a distribution is spent for a non-qualified purpose, **the investment earnings portion** of the distribution is subject to regular income taxes for that year;
- The tax on the **investment earnings portion** included as taxable income is increased by a 10 percent penalty;
- A distribution for a non-qualified purpose, or for housing, is counted as a resource if retained beyond the month of distribution.
- For example, a \$10,000, non-qualified expense that had accrued \$1,000 in interest may count as \$1,000 in taxable income with a tax penalty of \$100.



# Non-Qualified ABLER Distributions (Slide 2 of 2)

**What this means to you:**

Means-tested benefits may be at risk.





## Medical Improvement (Slide 1 of 2)

- When medical improvement occurs and there is a loss of eligibility, the ABLE account remains an ABLE account. ABLE contributions may continue throughout that calendar year;
- Distributions made on any date after the loss of eligibility (i.e., medical improvement) are not qualified disability expenses. The investment earnings portion of ABLE distributions are then included in the gross income of the ABLE account owner and may affect eligibility for means-tested benefits.



## Medical Improvement (Slide 2 of 2)

### What this means to you:

If you are no longer disabled, you can allow your funds to remain and grow in your ABLE account tax free until you decide to withdraw the funds.



## New! Medicaid Payback (Slide 1 of 3)

- A successor-designated beneficiary may be named during the lifetime of the ABLER account owner and takes effect upon the death of the ABLER account owner. The ABLER account is subject to federal estate tax as well as payment of outstanding QDEs and any state claim;
- An ABLER plan may satisfy a State's Medicaid reimbursement claim only after the payment of any outstanding qualified disability expenses, funeral and burial expenses, whether or not the subject of a pre-death contract for those services;
- Assets are then payable to the estate if no beneficiary is named.



## *New!* Medicaid Payback (Slide 2 of 3)

- A state is not required to file a Medicaid reimbursement claim and there is no state ABLE plan obligation to determine whether claims could be filed by multiple states;
- Many ABLE plans have taken steps to reduce or eliminate Medicaid payback for their residents;
- ABLE plans have provided notice of their payback policy within the plan comparison tools and disclosure document:  
<https://www.ablenrc.org/select-a-state-program>.



## *New!* Medicaid Payback (Slide 3 of 3)

### **What this means to you:**

If you have not received Medicaid since opening the ABLE account, there is no state Medicaid reimbursement.

You can save for the purchase or down payment of QDEs for large items or expensive services and withdraw funds, or draw down funds, as needed.



# Tax Incentives That Help Build ABLE Savings

*2021 tax filing season begins February 12, 2021, due to the pandemic and to expedite stimulus payments.*



# People with Disabilities and Taxes

The IRS has Information for People with Disabilities qualifying for certain, federal tax deductions, income exclusions and tax credits. The 2020 Publication 509 Tax Calendar is at: <https://www.irs.gov/publications/p509>.

- Tax credits may be state or federal. They reduce the income tax owed dollar for dollar and some may result in a refund. All or a portion of the refund may be saved in the ABLE account.
- Tax credits are meant to bring relief to some taxpayers who earn low to moderate income and take care of children, invest in education or save for retirement or other goals.

# ABLE State Tax Credit/Deduction (Slide 1 of 2)

- The ABLE National Resource Center has helpful tools to compare State ABLE plan features, including identifying states with tax deductions. Many individuals search their home state first to see if a tax deduction is available in their state of residence or another state by going to this state comparison tool:  
<https://www.ablenrc.org/state-plan-search/>
  - **For example: Wisconsin does not offer an ABLE program, but Wisconsin residents may apply for a state tax credit/deduction for any amount deposited into any other state's ABLE account.**



## ABLE State Tax Credit (Slide 2 of 2)

### What this means to you:

A state tax credit/deduction may lower the amount of tax due or it may allow a state income tax refund, allowing for increased savings.



## Saver's Credit (Slide 1 of 2)

The Saver's Credit may be available to ABLE account owners who work and deposit a portion of their earnings into an ABLE account.

- The maximum amount of the credit is 50%, 20% or 10% of total ABLE (or IRA or retirement plan) contributions;
- The non-refundable credit is up to \$2,000 for an individual or \$4,000 for a couple who each own an ABLE or other qualified savings account and file jointly.
- Distributions from the ABLE plan are also taken into consideration.

## Saver's Credit (Slide 2 of 2)

### What this means to you:

This non-refundable tax credit cannot be more than the tax you will pay for the tax year. By claiming the Saver's Credit, you can reduce your overall tax liability; a saved and invested income tax refund can grow significantly over time.



## Earned Income Tax Credit (Slide 1 of 3)

The Earned Income Tax Credit (EITC) is a benefit for working people who have adjusted gross income within certain limits.

- Even if a person does not owe any tax or they are not required to file, an EITC may provide a tax refund.
- Use the [EITC Assistant](#) to find out your filing status, your child's status as a qualifying child, your eligibility for the credit, and estimate the amount of the credit you may get.
- EITC has special rules that apply for members of the military, members of the clergy, and taxpayers with certain types of disability income or children with disabilities.



## EITC Maximum Credit (2020) (Slide 2 of 3)

The maximum amount of credit for Tax Year 2020 is:

- \$6,660 with three or more qualifying children
- \$5,920 with two qualifying children
- \$3,584 with one qualifying child
- \$538 with no qualifying children.
- <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/earned-income-tax-credit-income-limits-and-maximum-credit-amounts>



## EITC Maximum Credit (2020) (Slide 3 of 3)

### What this means to you:

Some states also have an EITC! If an EITC results in a tax refund, it can be saved in your ABLE account.



# Child and Dependent Care Credit (Slide 1 of 2)

- If you paid someone to care for your child or other qualifying person so you (and your spouse if filing jointly) could work or look for work, you may be eligible for this credit;
- To claim the exclusion, a Form 2441 must be completed, Child and Dependent Care Expenses: <https://www.irs.gov/pub/irs-pdf/f2441.pdf>. If paid by an employer, Part III of Form 2441 must be completed by the tax filer.



## Child and Dependent Care Credit (Slide 2 of 2)

### What this means to you:

This is a non-refundable tax credit that “gives back” a portion of the money you spend on care and can reduce your tax bill by hundreds or even thousands of dollars. You can claim the credit regardless of income, but the credit gets smaller at higher incomes.





## New! Stimulus Payments / Recovery Rebate Credit

- Any eligible taxpayer who received less than they should have in “Economic Impact/Stimulus payments” will get the remaining credit applied to their 2020 tax bill.
- To learn who is **eligible** to Claim the Recovery Rebate Credit, see: <https://www.irs.gov/forms-pubs/about-form-1040>.
- Eligible individuals must file **Form 1040** or **Form 1040-SR** to claim the Recovery Rebate Credit **even if they are normally not required to file a tax return.**



## Tax Refunds and Public Benefits (Slide 1 of 2)

- When budgets are stretched thin, a state or federal tax credit may provide savings which can be saved in an ABLE account.
- When tax refunds and stimulus payments are saved in a **non-ABLE** account, they **count towards the resource limit** by means-tested benefit programs after 12 months.

## Tax Refunds and Public Benefits (Slide 2 of 2)

### What this means to you:

An ABLE account is a protected account and a great way to save for either short-term or long-term needs without an impact on most means-tested benefits. If you don't receive a means-tested benefit, it still is a great way to save because your money grows tax free, it can be used at any time and may be an additional way to save for retirement.



# Other Factors That May Impact ABLE Accounts and Savings



# Employment and Saving in an ABLER Account (Slide 1 of 2)

There is no change in the way benefits programs count income, whether saved in an ABLER account or not. ABLER accounts are not a way to disregard income.

- If you are working or plan to become employed and receive a disability-based benefit from Social Security, use the “Find Help” tool: [choosework.ssa.gov/findhelp](https://choosework.ssa.gov/findhelp) to locate a Community Work Incentives Coordinator (CWIC) who works for a Work Incentive Planning and Assistance Program (WIPA). There is no cost for benefits counseling.
- They can help you to understand how working affects benefits and to use the work supports that Social Security or other programs offer that are specific to you. This can help you to become employed, to work at higher levels or to transition off benefits if that is your goal.



## Employment and Saving in an ABLER Account (Slide 2 of 2)

### What this means to you:

A CWIC can help you to use the SSA and other program work supports so that you keep more of your earnings to save and to achieve your goals.



# Tax Withholding

- Like all individuals who work, ABLE account owners should verify that they are having the right amount of income tax withheld from their pay, unemployment, Social Security Disability Insurance Benefits or their retirement benefits.
- The IRS urges all individuals to perform a withholding checkup now by using their fully accessible [Withholding Calculator](#). Doing so now will help avoid an unexpected, year-end tax bill, possibly a penalty or a large refund, which could leave you short on money to pay bills throughout the year and less to save regularly.



## Best Practices

- Verify that your tax withholding is accurate or make changes with your employer, or with Social Security. Use Publication 505, Tax Withholding and Estimated Tax.
  - Checking withholding can help protect against having too little tax withheld and facing an unexpected tax bill or penalty at tax time;
  - At the same time, you may prefer to have less tax withheld up front so you receive more in your paychecks and get a smaller refund at tax time.
- To deposit all or a portion of a refund into ABLE, use Form 8888.
- Ask your tax preparer whether you can use the tax credits discussed.





# ABLE Investments Grow Tax Free

- ABLE plans offer savings account and investment options;
- Some ABLE savings accounts offer FDIC insurance for the checking/debit card account option and some also allow for interest growth;
- Investment options allow for investment growth, but investments may also experience losses;
- ABLE account earned interest is not considered income for SSA disability benefits, any means-tested benefits or for income taxation;
- ABLE plans have fees disclosed in the plan disclosure document and compared here: <https://www.ablenrc.org/state-plan-search/>



# Free Tax Preparation Services



# Free Tax Preparation Services

- There is no income limit to file federal and state taxes using “My free Taxes:” <https://www.myfreetaxes.com>
- If you are unable to complete your tax return because of a disability, you may be able to obtain assistance from an IRS office or the [Volunteer Income Tax Assistance](#) or [Tax Counseling for the Elderly Programs](#).
- Tax Assistance for Individuals with Disabilities and the Hearing Impaired: <https://www.irs.gov/taxtopics/tc102>



# IRS Free File Tax Preparation

- IRS Free File allows eligible taxpayers with adjusted gross income (AGI) below \$72,000 to prepare and file their federal individual income tax return for free using brand name tax-preparation-and-filing software. Some programs also provide state tax filing free.
- If AGI is more than \$72,000, there are Free File Fillable Forms you complete yourself with limited guidance.



# ABLE Tax Forms

- Form 1099-QA: Distributions From ABLE Accounts.
  - An ABLE program issues this form to ABLE account owners and to the IRS to report all withdrawals made from the ABLE account; Investment Earnings, ABLE to ABLE transfers or termination of ABLE account.
- Form 5498-QA, ABLE Account Contribution Information.
  - An ABLE program issues this form to the ABLE account owner annually to report contributions (including rollovers), fair market value of the account, opening of a new account, certification of a qualified account and the disability code.
- If you have any questions about the amounts on these forms, you should contact your ABLE program administrator. Keep the forms with important records. They are not filed with your tax return.



# Next Steps and Resources



# ABLE Accounts and Tax Time Savings Fact Sheet

- Tax Time is another point in time to introduce ABLE accounts to tax filers, tax preparers and people with disabilities;
- The Fact Sheet lists information regarding the possibility of qualifying for State Income Tax Deduction, Saver's Credit and the option to have tax refunds directly deposited into an ABLE account.
- Fact Sheet: <https://www.ablenrc.org/able-accounts-and-tax-time-savings>
- ABLE and Tax Benefits: <https://www.ablenrc.org/able-and-tax-benefits>



# ABLE NRC Resources

- ABLE Final Regulation Key Takeaways:

<https://www.ablenrc.org/wp-content/uploads/2020/10/ABLENRCKeyTakeaways-IRSFinalABLERule.pdf>

- ABLE Accounts and Tax Time Savings:

<https://www.ablenrc.org/wp-content/uploads/2021/01/ABLE-accounts-tax-time-savings-2021.pdf>

- ABLE Accounts: Opportunity to Build Financial Resilience:

<https://www.ablenrc.org/wp-content/uploads/2021/01/able-accounts-opportunity-to-build-financial-resilience-2021.pdf>

- Disability Certification:

<https://www.ablenrc.org/wp-content/uploads/2020/10/spt-able-disability-certification.pdf>



# Internal Revenue Service Resources:

- Earned Income Tax Credit:

<https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit>

- Savers Credit:

<https://www.plans/plan-participant-employee/retirement-savings-contributions-savers-credit>

- Credit for the Elderly or Disabled [Schedule R \(Instructions\)](#)

- Child and Dependent Care Expenses (Publication 503):

<https://www.irs.gov/publications/p503>

- Recovery Rebate Credit:

<https://www.irs.gov/newsroom/recovery-rebate-credit>

- 2020 Tax Highlights for People with Disabilities:

<https://www.irs.gov/pub/irs-pdf/p907.pdf>

- Medical and dental expenses:

<https://www.irs.gov/pub/irs-pdf/p502.pdf>

# Join Us For Our Next Webinar

## Florida ABLE United Spotlight

March 18, 2021 12:00 P.M. to 1:30 P.M. Eastern Time

Register here: [us02web.zoom.us/webinar/register/  
WN\\_ikYlvN7NQDuzeK2iFifpyQ](https://us02web.zoom.us/webinar/register/WN_ikYlvN7NQDuzeK2iFifpyQ)





## COVID-19 Online Resource Center *for People with Disabilities and Chronic Health Conditions*



[nationaldisabilityinstitute.org/financial-resilience-center](https://nationaldisabilityinstitute.org/financial-resilience-center)

The Financial Resilience Center was developed by National Disability Institute with generous funding from the [Wells Fargo Foundation](#).

# The End – Thank You!

