

## What Is ABLE?

### What is an ABLE account?

ABLE accounts are tax-advantaged savings and investment accounts for individuals with disabilities. They were created as a result of the passage of the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014, better known as the ABLE Act. The ABLE Act, considered by many to be one of the most significant pieces of legislation for the disability community since the Americans with Disabilities Act (ADA), had overwhelming bipartisan support in both the Senate and the House.

The law was the result of nearly a decade-long cross-disability grassroots effort. This effort originated with a group of parents of children with disabilities who recognized the unfairness of not being able to save funds in their child's name for fear of losing essential benefits, benefits that would allow their child to live independently in the community.

The individual with the disability is the ABLE account owner. The account owner, family, friends, an employer or the account owner's Special Needs Trust (SNT) may contribute funds into the account. ABLE account owners, both those who receive and those who do not receive public benefits, may save for qualified disability expenses (QDEs) related to transportation, health care, housing, education, employment, retirement and more.

### Why the need for an ABLE account?

Millions of individuals with disabilities and their families depend on a variety of public benefits for income, health care and food and housing assistance. Eligibility for these public benefits requires meeting a means test that limits eligibility and requires individuals to report more than \$2,000 in cash savings, retirement funds and other items of significant value. ABLE accounts allow eligible individuals to save and invest money, largely without affecting eligibility for public benefits; Medicaid eligibility is not affected by ABLE savings in any amount up to the individual state 529 savings limit.

### ABLE Accounts: Things You Should Know

Microtrain]b]. [The ABLE Act and ABLE Accounts: 10 Things You Should Know](#)

### What are the eligibility requirements?

The ABLE Act limits eligibility to individuals with significant disabilities with an onset of disability before turning 26 years of age, but an individual can be any age when opening the account. If your employee had an onset of disability prior to age 26, and is also receiving benefits under Supplemental Security Income (SSI) and/or Social Security



Disability Insurance (SSDI), they are automatically eligible to establish an ABLE account. If they are not a recipient of SSI and/or SSDI, but still meet the age of onset disability requirement, they could still be eligible to open an ABLE account if they meet Social Security's definition and criteria regarding significant functional limitations and they receive a letter of disability certification from a licensed physician.

### **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 in 2020. The amount may be adjusted periodically 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 is subject to the individual state and their limit for education-related 529 savings accounts. States have set this limit anywhere between \$100,000 to \$529,000 per plan.

In addition to the annual contribution limit of \$15,000, an ABLE account owner who works may also contribute his or her compensation up to the federal poverty level (FPL) amount for a one-person household. The FPL amount applicable to 2020 ranges from \$12,490 for individuals who live in the continental U.S., to \$15,600 for individuals who live in Alaska or \$14,380 for individuals who live in Hawaii. A beneficiary cannot contribute this additional amount if the employer has made a contribution to their 401(a) defined contribution plan or a 403(a) annuity contract, a 403(b) annuity contract or a 457(b) eligible deferred compensation plan.

For individuals with disabilities who are recipients of SSI, the ABLE Act sets some further limitations. The first \$100,000 in ABLE accounts is exempt from the SSI \$2,000 individual resource limit. If the combination of ABLE savings over \$100,000 plus non-ABLE savings exceeds the resource limit, the beneficiary's SSI cash benefit would be suspended until such time as the account falls back below the resource limit. It is important to note that, while the beneficiary's eligibility for the SSI cash benefit is suspended, eligibility or continued eligibility for medical assistance through Medicaid is not affected.

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 state could recoup Medicaid-related expenses from the time the account was open only after outstanding qualified disability expenses, including funeral and burial expenses, are paid and any Medicaid buy-in premiums are reimbursed. Funds remaining in the account would be payable to the individual's estate.



**Do earnings from employment contributed by an employee count as “income” when contributed into an ABLE account?**

Yes. Earnings that are the result of employment are still counted in terms of earned income or substantial gainful activity (SGA) and taken into consideration when determining eligibility or continued eligibility for certain public benefits.

**Can an employer contribute to an ABLE account?**

Yes! However, when an employer contributes to an employee's ABLE account it is taxable income and could affect means-tested benefits, if received. If an employer contributes to an employee's family member's ABLE account, that is not countable income for the ABLE account owner. The contribution is considered taxable income for the employee.

**Which expenses are allowed by ABLE accounts?**

A qualified disability expense, or QDE, means any expense related to the designated beneficiary as a result of living a life with a disability. Funds saved and invested in an ABLE account grow tax-free when used to pay for QDEs. QDEs include expenses related to education, housing, transportation, employment training and supports, 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.

Funds in ABLE accounts can be used to support your employees' ability to work, and increase their productivity and ability to get to and from work. The savings may be used for emergencies or other sudden expenses which could create challenges in continuing to work. For example, if a vehicle breaks down and the individual does not have funds for the repair, the individual may not be able to commute to work. Funds can also support your employees by allowing them consistent access to medical care which may help them avoid absences from work, health-related financial emergencies or other health-related barriers to employment. They may also be used to mitigate the time and financial stress they may experience caring for a loved one with a disability.

**Can an individual have more than one ABLE account?**

No. The ABLE Act limits the opportunity to one ABLE account per eligible individual.

**Does an individual have to wait for their 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 an individual might live and whether or not their state has decided to establish an ABLE program, they 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 or use the Three State Comparison Tool on [ablenrc.org](http://ablenrc.org). Most states accept enrollment by out-of-state residents although some are limited to in-state residents. The ABLE NRC State ABLE Program Comparison Tools were designed to help you determine which programs are open to you and give you an introduction to other key characteristics and features of the ABLE programs.

### **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 and family will need to forecast an estimate of possible future needs and costs over time, and assess their risk tolerance for possible future investment strategies to grow their savings. Changes to the way money is invested in the account may be made up to two times per year.

