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NATIONAL RESOURCE CENTER
ACHIEVING A BETTER LIFE EXPERIENCE ACT



Advantages of ABLE for Those Not Receiving Public Benefits

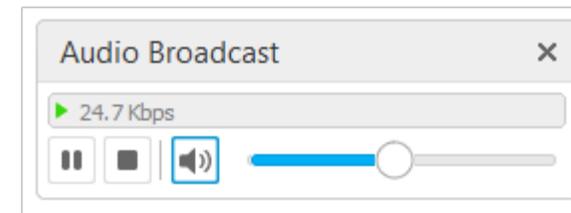
Facilitated by

Chris Rodriguez, Director, ABLE National Resource Center



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Presenters and Guests

- Presenters and Panelists
 - Christopher J. Rodriguez, Director, ABLE National Resource Center
 - Michael Morris, Executive Director, National Disability Institute
 - Mark Friese, Senior Vice President, Wealth Management Advisor, Merrill Lynch & Co.
 - G. Christopher Wright, Attorney & CPA, Vogelmann, Turner & Wright
 - Al Elia, ABLE Account Owner

Agenda

- ABLE Introduction
- Basic ABLE Characteristics
- Tax Incentives
- Profiles and Scenarios
- Meet Al Elia
- Questions and Answers

History of ABLE



What is ABLE ?

The Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act (PL 113-295) amends the federal tax code to add Section 529A in order to:

create a new option for eligible people with disabilities

to save money in a tax-exempt account

that may be used for qualified disability expenses

while still keeping their eligibility for federal public benefits.



ABLE Becomes Law - December 2014

- **One of most bipartisan bills in history**
 - **85% of the entire US Congress supported the ABLE Act**
 - 381 out of 435 in the US House of Representatives
 - 78 out of 100 in the US Senate
- Authorized (did not require) states to establish ABLE programs
- States acted very quickly to pass state ABLE laws and set up ABLE programs
 - June 2016: First ABLE account available
 - To date, 38 states (plus DC) have launched ABLE programs (many available for nationwide enrollment)

ABLE Basics



Basic Characteristics

- There are eligibility requirements related to opening an ABLE account that speak to the age in which the individual first experienced his/her disability and related to the severity of such disability.
- An eligible individual is not obligated to enroll in their state of residence
- The “Designated beneficiary” is the account owner (although another person such as a parent, guardian, or person with power of attorney may be allowed signature authority over the account).
- Funds in the account may be used for “qualified disability related expenses”
- Assets in, and distributions for qualified disability related expenses, will be disregarded or given special treatment when determining eligibility for *most* federal means -tested benefits (including Social Security and Medicaid)
- Multiple individuals may contribute to an individual’s ABLE account
- There is a **\$15,000*** annual contribution limit (all contributors combined)*

Who is eligible to be an ABLER account beneficiary?

To be eligible, individuals must meet two requirements:

- 1) Age requirement: must be disabled before age 26; AND
 - 2) Severity of disability:
 - Have been determined to meet the disability requirements for Supplemental Security Income (SSI) or Social Security disability benefits (Title XVI or Title II of the Social Security Act) and are receiving those benefits,
- OR**
- **Submit a “disability certification” assuring that the individual holds documentation of a physician’s diagnosis and signature, and confirming that the individual meets the functional disability criteria in the ABLER Act (related to the severity of disability described in Title XVI or Title II of the Social Security Act).**

What is a “disability certification”?

- A physician’s note stating that you have a “medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, or is blind”.
- Obtain this note prior to opening the ABLE account and ***keep it in your own files***
- You will need to certify under penalty of perjury that you have obtained this certification prior to opening the account
- If you are already eligible for SSI or SSDI, then you do not need a separate disability certification

What may funds from an ABLE account be used for?

- Distributions from an ABLE account may be made for “**qualified disability expenses**”.
- “Qualified disability expenses” are expenses that relate to the designated beneficiary’s blindness or disability and are for the benefit of that designated beneficiary in maintaining or improving his or her health, independence, or quality of life.
- The term “qualified disability expenses” should be broadly construed to permit the inclusion of basic living expenses and should not be limited to:
 - expenses for items for which there is a medical necessity, or
 - which provide no benefits to others in addition to the benefit to the eligible individual .

Qualified disability expenses may include the following:

- Education, housing, transportation, employment training and support, assistive technology, personal support services, health, prevention & wellness, financial management and administrative services, legal fees, funeral and burial expenses and basic living expenses
- Distributions for non-qualified expenditures will be subject to tax penalties and consequences and may affect eligibility for federal means-tested benefits.

How do ABLER account assets impact eligibility for federal benefits?

ABLE assets will be disregarded or receive favorable treatment when determining eligibility for *most* federal means -tested benefits:

- ***Supplemental Security Income (SSI)***: For SSI, only the first \$100,000 in ABLE account assets will be disregarded.
 - SSI payments (monthly cash benefit) will be ***suspended*** (not terminated) if the beneficiary's account balance exceeds \$100,000, but SSI benefits (eligibility) will not be terminated. *Funds above \$100,000 will be treated as resources.*

Impact on Federal Benefits (cont.)

- **Medicaid:** ABLE assets are disregarded in determining Medicaid eligibility
 - Medicaid benefits are NOT suspended if the ABLE account balance exceeds \$100,000 (that is only applicable to the SSI monthly cash benefit)
 - **Medicaid Payback:** Any assets remaining in the ABLE account when a beneficiary dies, subject to outstanding qualified disability expenses, can be used to reimburse a state for Medicaid payments made on behalf of the beneficiary after the creation of the ABLE account (the state would have to file a claim for those funds)

Tax Advantages



Tax Advantages

- A Qualified ABLE Program is exempt from tax. This means that earnings accumulate tax free and distributions are not taxed so long as the distributions do not exceed qualified disability expenses of the designated beneficiary.
- No federal tax deduction is allowed, but states might allow a deduction. These accounts work a lot like section 529 education savings accounts.

Qualified Program Means

- Program established by State
- One designated beneficiary per account
- Contributions only in cash – no in-kind transfers, but rollovers from section 529 education accounts allowed by new law.
- Aggregate annual contributions, including 529 rollovers, cannot exceed the annual gift tax exclusion, current at \$15,000 per calendar year. Gift tax issues could arise if a person makes a contribution up to the \$15,000 limit and also makes other gifts to the eligible individual during the same year.
- Limited investment direction - two times per year
- Cannot be used as security for a loan

Distributions and Tax

- Not taxable unless exceed qualified disability expenses
- Rollovers from one ABLE account to another ABLE accounts are not distributions, but only one rollover allowed in a 12-month period.
- Changes in beneficiaries are not distributions if the new beneficiary is an eligible individual and a member of the family of the former beneficiary. Gift tax and Generation skipping tax do not apply to these kinds of transfers.
- Distributions not used for qualified expenses are included in gross income. Income tax is imposed on the earnings portion, not the entire distribution.
- Additional 10% tax on distributions included in gross income, i.e. those not used for qualified disability expenses
 - Penalty tax does not apply to distributions made after death of the designated beneficiary

State Tax Benefits

- Each state is different.
- Virginia allows a \$2,000 deduction with carryforward of un-used amounts, but if the contributor is age 70 the entire contribution can be deducted.
- Maryland allows a deduction of \$2,500 (\$5,000 if married filing a joint return)
- DC does not allow a deduction

Watch Your ABLF Funds Grow!

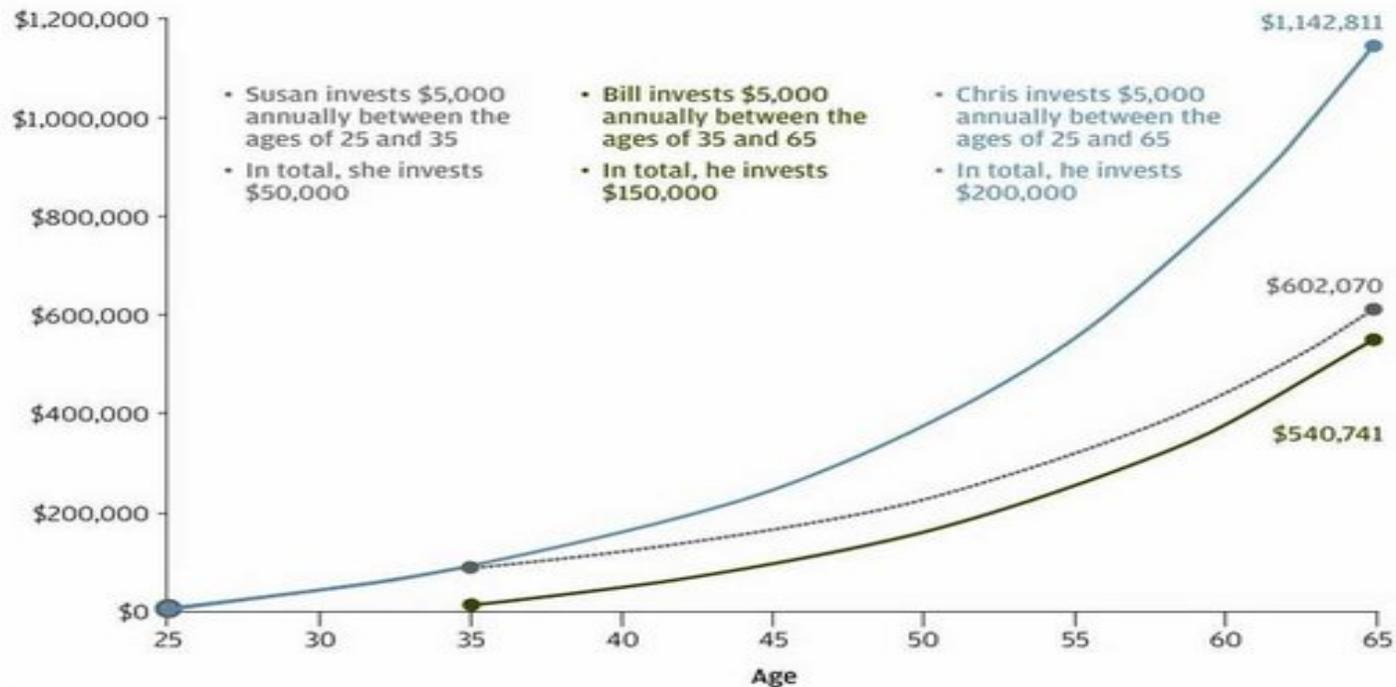
- Compounding Interest
- Tax Free Growth

Power of Compounding and Your ABLE Account



Timing of savings

Growth of savings accounts



- Susan invests \$5,000 annually between the ages of 25 and 35
- In total, she invests \$50,000

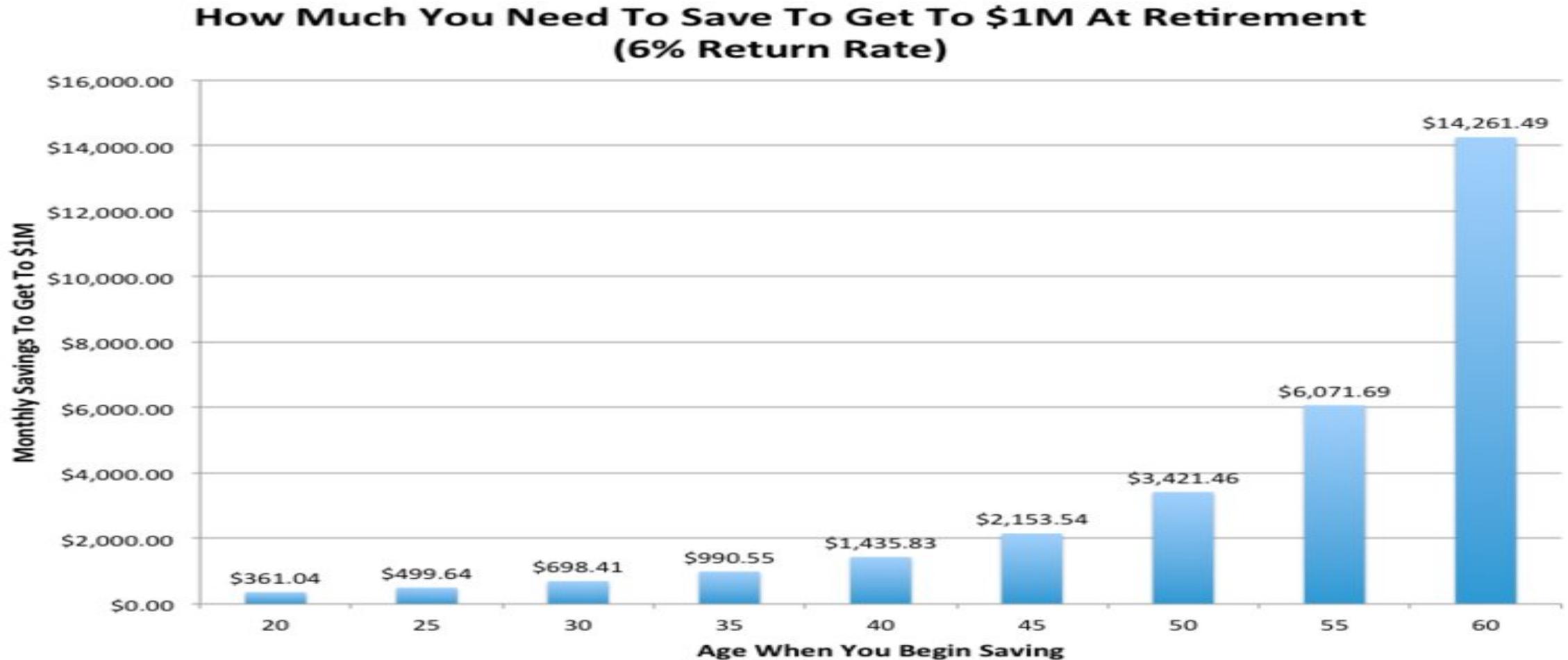
- Bill invests \$5,000 annually between the ages of 35 and 65
- In total, he invests \$150,000

- Chris invests \$5,000 annually between the ages of 25 and 65
- In total, he invests \$200,000

Saving fundamentals: Harnessing the power of compounding can greatly impact the amount of savings over the long term.

The above example is for illustrative purposes only and not indicative of any investment. Account value in this example assumes a 7% annual return. Source: J.P. Morgan Asset Management. Compounding refers to the process of earning return on principal plus the return that was earned earlier.

Who wants to be a millionaire ?



Traditional Retirement Savings

- 401(k)
- 403(b)
- IRA
- ABLE



Fact Pattern

- 18 year old.
- Adds \$ 15,000 per year.
- Starts to draw against account at age 59 ½.



Results

Total Savings

\$ 3,681,967



Tax Man

Total Savings	\$ 3,681,967
Taxes Due	<u>\$ 1,030,950</u>
Net	\$ 2,651,017



Fact Pattern

- 18 year old.
- Adds \$ 15,000 per year.
- Starts to draw against account at age 59 ½.



Results

Total Savings

\$ 3,681,967



Tax Man

Total Savings	\$ 3,681,967
Taxes Due	<u>\$ -0-</u>
Net	\$ 3,681,967



Life Changes

- ABLE assets not considered an available resource.
- Money grows tax free
- Gains are not taxes
- Medical benefits are still intact (Medicaid)
- Flexible use of money (example, housing)

Resources Available

- Workbook
- On-line calculator
- Referrals for your circle of support

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Advantages to Non Benefits ABLER Account Owners

- There is no requirement that you must be on benefits to open an ABLER account
- You may not have access to a conventional savings tool
- Tax benefits may outweigh using a more conventional savings tool (401k, IRA, 403b)
- You may not be on benefits now, but may need them in the future

Jim (Scenario 1)

- Jim is an artist that was involved in a car accident when he was, which resulted in paralysis from the waist down.
- At age 30, Jim started his own business selling his artwork. He makes well over the allowable income to qualify for public benefits, including Medicaid and his disability related needs are currently being met with help from friends and family.
- Jim, as a small business owner, does not have access to a employer based retirement fund so that he can save for his future.
- Jim opens an ABLER account to act as a retirement fund and realizes that the tax benefits of the ABLER account outweigh benefits that would have been provided through a typical 401k and the funds are far more accessible if he should need them for disability expenses prior to retirement age.

Bette (Scenario 2)

- Bette was diagnosed with early age Parkinson's disease at age 25.
- Bette's symptoms were mild (not needing supports provided through Medicaid) and allowed her to continue her job as a computer software engineer for a company that offered a 401k, as a result she felt no need to open an ABLER account.
- Bette's Parkinson's progressed in her 30's to a point where she could no longer keep her job and needed supports provided through Medicaid, however, Bette had considerable resources in her 401k that now prohibited her from accessing supports and services provided by Medicaid.

Al Elia (ABLE Account Owner)



Al Elia primarily opened his Massachusetts ABLE account as a retirement account. As an attorney with a small firm that doesn't currently offer retirement benefits having an ABLE account effectively gives Al a private 401(k) without having to worry about penalties for early withdrawals, should a need arise. Al, who is blind, had a successful career as a software engineer prior to becoming an attorney.



The ABLERational Resource Center

The ABLERational Resource Center (ANRC) is a collaborative whose supporters share the goal of accelerating the design and availability of ABLERaccounts for the benefit of individuals with disabilities and their families. We bring together the investment, support and resources of the country's largest and most influential national disability organizations .

www.ablenrc.org

Question and Answers



Contact us!

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