ABLE accounts can benefit loved ones with special needs

Published on July 13, 2017

For families with disabled loved ones who are potentially eligible for means-tested government benefits such as Medicaid or Supplemental Security Income ("SSI"), estate planning can be a challenge. On the one hand, you want to provide the most comfortable life possible for your family member. On the other hand, you don't want to jeopardize his or her eligibility for needed government benefits.

For many years, the most effective solution to this problem has been to set up a special needs trust ("SNT"). But beginning in 2014, the Achieving a Better Life Experience ("ABLE") Act created Internal Revenue Code Section 529A, which authorizes the states to offer tax-advantaged savings accounts for the blind and severely disabled, similar to Section 529 college savings plans.

How ABLE accounts work

The ABLE Act allows family members and others to make nondeductible cash contributions to a qualified beneficiary's ABLE account, with total annual contributions limited to the federal gift tax annual exclusion amount (currently, $14,000). To qualify, a beneficiary must have become blind or disabled before age 26.

The account grows tax-free, and earnings may be withdrawn tax-free provided they're used to pay "qualified disability expenses." These include health care, education, housing, transportation, employment training, assistive technology, personal support services, financial management and legal expenses.

An ABLE account generally won't affect the beneficiary's eligibility for Medicaid and SSI — which limits a recipient's "countable assets" to $2,000 — with a couple of exceptions. First, distributions from an ABLE account used to pay housing expenses are countable assets. Second, if an ABLE account's balance grows beyond $100,000, the beneficiary's eligibility for SSI is suspended until the balance is brought below that threshold.

Comparison with SNTs

Here's a quick review of a few of the relative advantages and disadvantages of ABLE accounts and SNTs:

Availability. Anyone can establish an SNT, but ABLE accounts are available only if your home state offers them, or contracts with another state to make them available. Also, as previously noted, ABLE account beneficiaries must have become blind or disabled before age 26. There's no age restriction for SNTs.

Qualified expenses. ABLE accounts may be used to pay only specified types of expenses. SNTs may be used for any expenses the government doesn't pay for, including "quality-of-life" expenses, such as travel, recreation, hobbies and entertainment.

Tax treatment. An ABLE account's earnings and qualified distributions are tax-free. An SNT's earnings are taxable.

Please contact us with additional questions you may have regarding ABLE accounts.

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