

ABLE ACCOUNTS IN ILLINOIS

“ABLE” Accounts are a recent creation of federal law designed for individuals with who have a disability to allow them to have a tax-free savings account which does not affect eligibility for public benefit programs such as SSI and Medicaid.

The Illinois ABLE Account program is administered by the Illinois Treasurer’s office. An ABLE account may be owned by a person with disabilities who became disabled before reaching the age of 26. Funds held in ABLE accounts grow tax free and may be used for “qualified disability expenses”. Each person may have only one account in the nation. The maximum annual contribution to an ABLE Account is \$15,000 in 2018 from all sources, and contributions must be in the form of money. A designated representative who may be a guardian, agent under power of attorney for property, or a properly witnessed written designation, may act on behalf of the owner with disabilities.

Recent changes in tax law now allows the rollover of a 529 College Savings account established for a person with disabilities who became disabled before reaching the age of 26, to an ABLE account, without tax consequences.

“Qualified disability expenses” means any expenses related to the eligible individual’s disability which are made for the benefit of the eligible individual who is the account owner, including the following expenses: education; housing; transportation; employment training and support; assistive technology and personal support services; health; financial management and administrative services; legal fees; expenses for oversight and monitoring; and funeral and burial expenses.

ABLE accounts, income and qualified distributions do not affect the owner’s eligibility for SSI and Medicaid. However, to maintain eligibility for SSI, the account value cannot exceed \$100,000. To maintain eligibility for Illinois Medicaid, the account value cannot exceed \$350,000. Under the federal law, if there are funds remaining in the ABLE Account at the owner’s death, States that provided medical assistance, including services under Medicaid home-based programs, are required to be paid back from the remaining funds in the ABLE Account. Recently, the Illinois law was changed to eliminate the pay back requirement, however, it is possible that the federal pay back requirement will continue to be enforced.

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Although there are drawbacks, ABLÉ accounts can be very useful. An ABLÉ account is useful when a relative has left an inheritance of less than \$15,000 directly to an individual with disabilities who is receiving Medicaid or SSI. ABLÉ accounts could also be used to avoid the 1/3 reduction in SSI for family contributions to the individual's food and shelter expenses. If the family contributes the funds for food and shelter to an ABLÉ Account, its use will not cause the 1/3 reduction to SSI, as it would if such funds came directly from the family or a special needs trust. Before considering an ABLÉ account, you should consult with an experienced special needs planning attorney.

For information specifically on the State of Illinois Able Account program, go to www.Illinoisable.com.

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When you have questions related to elder or special needs law, think of the attorneys at Dutton Casey & Mesoloras.

Appointments are available in Arlington Heights, Chicago, Naperville, Skokie and Westchester, Illinois, via telephone or video conferencing.

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Resources:

Academy of Special Needs Planners – www.specialneedsanswers.com

National Elder Law Foundation - www.nelf.org

National Academy of Elder Law Attorneys – www.neala.org