

ABLE Accounts Back in the News?

Take-Away: The favorable contribution rules to an ABLE account, which allowed a disabled individual to save money in a tax-advantaged account without losing eligibility for federal aid, created by the 2017 Tax Act, are set to expire in 2026.

Background: ABLE accounts have been around for the past 10 years. IRC 529A authorizes a state to establish a Achieving a Better Life Experience (ABLE) program for individuals with disabilities to assist those individuals, and their families, meet qualified disability expenses. Only 4 states have failed to adopt ABLE programs. Initially ABLE accounts allowed a disabled individual to save while still qualifying for federally funded benefits, such as Medicaid and Supplemental Security Income (SSI). However, those individuals who developed the disability had to do so before age 26. Contributions to the original ABLE account were limited to the annual gift tax exclusion under IRC 2503(b). Contributions to the ABLE account were not deductible, but those contributions were generally free from taxation, along with the earnings of the ABLE account.

2017 Tax Act: This Act increased the ABLE account contribution limit for tax years 2018 through 2025. The Act also allowed employed ABLE-account beneficiaries to make additional contributions beyond the gift tax exclusion up to the less of either (i) the federal one-person poverty line, or (ii) their compensation. The Act also allowed the ABLE account beneficiary to take a retirement savings contribution credit for their account contributions. And the Act also permitted rollovers from a beneficiary's IRC 529 account to their ABLE account. These enhancements would disappear if the 2017 Tax Act sunsets as it is scheduled to do come 2026.

Pending Congressional Bill: There is a pending Bill in the Senate (SB 4541) that would make these 2017 Tax Act enhancements to an ABLE account permanent. The sponsor of the Bill, Senator Schmitt from Missouri, is also pushing for a major change that would move the age by which the individual must have developed his/her disability to qualify for an ABLE account from age 26 to age 46 to 'cover' veterans. Apparently, this Bill has strong bipartisan support in the Senate.

Conclusion: While it is an election year, this Bill to make permanent the enhancements to an ABLE account may get enough support towards the end of the year to be adopted. It is something that families with disabled children and grandchildren will want to watch.

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