

Comparison of ABLE Accounts & Special Needs Trusts

ABLE Accounts

VERSUS

Special Needs Trusts

Self-Settled

Third-Party

Cash only
No investment securities or tangible assets, or real estate

TYPES OF ASSETS ALLOWED

No restrictions
Can include real estate, etc.

No restrictions
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5 specific investment options including one FDIC-insured

INVESTMENT OPTIONS

Trustee has full discretion to evaluate all available options

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The individual, parent, guardian, or Authorized Legal Representative (“ALR”) under power of attorney

WHO MAY ESTABLISH?

The individual, parent, guardian, grandparent or court

Anyone other than the individual

Anyone, including the individual

WHO MAY CONTRIBUTE ASSETS?

The individual is the only one who should, but others could contribute

Anyone other than the individual

The individual owns the account – Account is controlled by the individual, an ALR, which may be a parent, guardian, agent under power of attorney, or an SSA Representative Payee

WHO OWNS AND CONTROLS ACCOUNT/ASSETS AFTER ESTABLISHED

The Trustee, who may be anyone other than the individual

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Onset of individual’s disability prior to age 26

AGE LIMITS

Individual must be under the age of 65 when assets are funded into the trust

None

One

HOW MANY ACCOUNTS/TRUSTS MAY BE ESTABLISHED FOR THE INDIVIDUAL?

No limit

No limit

Disclaimer: This chart is for informational purposes only and is purely advisory/hypothetical in nature. No attorney/client relationship has been created, and no legal or financial advice is being provided. This summary is not a substitute for receiving a legal opinion regarding any specific circumstances.

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\$17,000/year from all sources (2023); Account must remain below \$100,000 for SSI, or below the 529 Plan limit for Medicaid (approximately \$550,000 in most states in 2023) (additional contributions in the amount of \$13,590 (2023) in wages can be contributed annually by employed owner)

CONTRIBUTION AND OVERALL LIMITS

No limit

No limit

Funds to be used for “qualified disability expenses” – payments for shelter expenses (rent, mortgage, utilities, taxes) and food allowed, as well as a broad range of other expenses (either related to the disability or to improve “quality of life”).

HOW MANY FUNDS BE USED?

Not limited; however, cash distributed directly to the beneficiary will be counted as unearned income for both SSI and Medicaid, and distributions for shelter expenses (rent, mortgage, utilities, taxes) and food, will be counted as unearned income in the form of “in-kind support and maintenance” for SSI and possibly Medicaid

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Yes, for Medicaid benefits paid after the date the ABLE Account was created

MEDICAID PAYBACK

Yes, for Medicaid benefits paid during the individual’s lifetime

No

ABLE Accounts grow income tax free. No income tax on distributions if for a “qualified disability expense”; if distributions made for non-qualified expenses, there would be income tax and 10% penalty

TAXES

Income taxed to the individual

Income taxed to the individual if distributions made, or to the trust

The individual or ALR controls whether funds will be electronically transferred to another account, or payments be made to vendors (i.e., utility companies, providers) by check; the individual and the ALR each may have a ABLE card (The NH program, STABLE NH, now uses True Link for its card), similar to a preloaded credit card, with built-in restrictions as needed

MECHANICS OF USE

Trustee has full discretion whether or not to make any particular distribution, and decides whether to use checks or make electronic transfers; a True Link card can be issued to the trust beneficiary with express restrictions

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