

## **CalABLE Program**

### *Frequently Asked Questions*

#### **1) How will Housing Authorities view the ABLE Program? Can I use ABLE Account funds for housing and rent?**

According to the federal ABLE Act, assets in ABLE accounts are not to be counted towards any federal, state, or local means-tested program, including low income housing. HUD has not yet updated its guidelines to comply with the ABLE Act of 2014 and therefore some residents who have opened ABLE accounts in different states may encounter difficulties if they are asked to confirm or requalify for eligibility for low income housing. The State Treasurer has reached out to HUD at the federal level to ensure swift compliance, and this will remain a priority for us until all rules are updated.

ABLE account funds may be used to pay for housing expenses, including rent. However, according to SSA guidance, if ABLE account funds are used to pay for housing expenses, they must be spent within the same calendar month during which they were withdrawn, otherwise they will be considered a countable resource when determining eligibility for SSI/SSDI benefits. (EXAMPLE: Amy takes a distribution of \$500 from her ABLE account in May to pay her rent for June. She deposits the \$500 into her checking account in May, withdraws \$500 in cash on June 3, and pays her landlord. This distribution is a housing-related qualified disability expense and part of her checking account balance June 1, which makes it a countable resource for the month of June. (See: <https://secure.ssa.gov/poms.nsf/lnx/0501130740>)

#### **2) Understanding that contributions are limited to \$14,000 per year – can you contribute more than \$100,000 (say \$14,000 for ten year[s]) and preserve the interest income tax free status?**

Yes. The total amount in the account, which includes contributions and interest, will be tax-exempt as long as the funds are/will be spent on qualified disability expenses. In California, for CalABLE Accounts, participants are allowed to save up to \$475,000 in tax-exempt assets.

#### **3) What are the qualifying disability expenses that allow the savings to remain tax free?**

Qualified Disability Expenses (QDEs) are broadly defined and are for the maintenance or improvement of the beneficiary's health, independence, or quality of life. Some examples of a QDE are expenses related to the beneficiary's education, housing, transportation, employment training and support, assistive living technology and related services, personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, and funeral/burial expenses.

#### **4) What is the difference between Special Needs Trusts versus ABLE accounts?**

For many, CalABLE accounts may be an additional option to a Special Needs Trust (SNT). Because we are not financial advisors or planners, we are not in a position to provide advice with regard to the pros and cons of each based on individual situations. Our recommendation is to seek the advice of a special needs trust attorney to understand how these accounts could work together. The ABLE National Resource Center website has a webinar which may provide useful information on this topic: <http://www.ablenrc.org/events/able-accounts-trusts-financial-and-benefits-planning>.

**5) How are the withdrawals documented?**

Withdrawals and expenditures will likely be documented via an online account system similar to an online banking account. It will be up to you to track how you spend the money in your ABLE account; we will not ask you for receipts. However, the IRS has the right to ask you to verify your expenditures. For this reason, you should keep good records on how you are spending your ABLE account funds. It is possible that – at some point in the future - the system we implement will allow account holders to upload and store receipts electronically. Regarding the monthly parameters for spending, each month on the first of the month, CalABLE will report account names and balances to the Social Security Administration. Those individuals receiving SSI/SSDI may be monitored by SSA to ensure account balances do not exceed statutory limits.

**6) Will California offer tax credits to contributors towards an ABLE account?**

CalABLE staff will pursue legislation that will provide a tax incentive for contributors.

**7) What are some of the differences between different states' ABLE accounts?**

States currently administering ABLE programs have some characteristics that are unique to their individual program, including minimum contribution requirements, annual fees, and investment options. To learn more about these differences and compare programs, visit [http://ablenrc.org/state\\_compare/](http://ablenrc.org/state_compare/).

**8) Who is going to be responsible for auditing the disability expenses and how they are used and to determine if they are non-QDE?**

CalABLE will not be auditing account expenses; it will be the responsibility of the account holder to ensure that disbursements meet the criteria for Qualified Disability Expenses. However, the IRS has the ability to audit and ask you to verify your expenditures. For this reason, you should keep good records on how you are spending your ABLE account funds. SSA will also be receiving monthly account balances to check against their own records for beneficiaries receiving SSA benefits.

**9) Can account balances be transferred between states?**

Yes, you will be able to transfer an existing ABLE account to California once accounts are available; however, some states may charge a fee to do this. Check with your current program to learn about any fees associated with transferring accounts between states.

**10)Is disability limited to those on SSA lists?**

An individual is eligible to own an ABLE account if he/she is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act. Alternatively, the individual or his/her parent or guardian must be able to certify, along with a physician's signed diagnosis, that the individual has a medically determinable physical or mental impairment that 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 (within the meaning of section 1614(a)(2) of the Social Security Act). Nevertheless, in any case, such blindness or disability must have occurred before the individual turned 26 years old.

**11)For how many years do we need to keep receipts or documents in case of audit?**

You will need to work with the Internal Revenue Service and the Franchise Tax Board on what they require when it comes to documentation.

**12)How do you plan to integrate investment options into the ABLE account?**

We plan to have a simple spread from federally insured to aggressive portfolios.

**13)What is the maximum amount one can have in a CalABLE account--above the \$100,000 SSI-protected amount?**

Currently, the aggregate cap for CalABLE accounts is \$475,000, the same as California's 529 college savings plan, Scholarshare.