ABLE

Account Learning Series

The Arc®
El Paso

What are ABLE Accounts?

ABLE Accounts are tax-advantaged savings accounts designed for individuals with disabilities and their families, established under the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 (the ABLE Act).

Eligibility for an ABLE account includes:

- Receiving Supplemental Security Income (SSI) based on blindness or disability that started before age 26.
- Being in SSI suspense solely due to excess income or resources but otherwise eligible for SSI based on blindness or disability that began before age 26.
- Having a disability certification signed by a doctor confirming onset of blindness or disability before age 26.

Everyone may only have one ABLE account. During rollover from one state to another, an overlap is permitted.

Contributions to ABLE Accounts are subject to limits. In 2024, the maximum deposit is $18,000. Working individuals may contribute an additional $14,580 (except in Alaska and Hawaii), not exceeding their earnings. Rollover amounts between state programs do not count toward contribution limits. Texas allows up to $500,000 in its ABLE account.

ABLE Accounts generally do not affect federal means-tested programs. SNAP benefits and Federal Housing benefits are unaffected, although these programs may require ABLE account records for expenditure verification. Medicaid and Medicaid Waiver Programs are never affected. SSI payments halt if an ABLE account exceeds $100,000, resuming when the balance drops below this threshold.

Funds in an ABLE account belong to the beneficiary. Upon their death, remaining funds can cover final expenses, with any surplus potentially reimbursing Medicaid expenses before distribution to heirs.

What are Common Myths about ABLE Accounts?

There are many myths about ABLE Accounts that often keeps a person from opening an account. In this section, we have provided facts regarding common ABLE account myths.

Myth: An individual must be under the age of 26 to have an ABLE account.

Fact: An individual of any age can open an ABLE account if the onset of disability occurred before their 26th birthday.

More info https://www.ssa.gov/ssi/spotlights/spot-able.html

Myth: An individual must be receiving Social Security benefits to qualify for an ABLE account.

Fact: Eligibility includes receiving SSI or having benefits suspended due to resource or income limits provided the disability onset occurred before age 26. A physician's certification of disability onset before age 26 is also valid.

Details https://www.ssa.gov/ssi/spotlights/spot-able.html

https://www.ablenrc.org/wp-content/uploads/2020/10/spt-able-disability-certification.pdf

Myth: The only person who can deposit money into the ABLE account is the eligible person who has a disability.

Fact: Contributions can be made by the beneficiary, family members, friends, employers, and even through rollovers from 529 accounts.

More info https://www.ssa.gov/ssi/spotlights/spot-able.html?tl=10

Myth: Contributions to an ABLE Account made by others count as income.

Fact: Contributions from third parties are considered non-taxable gifts and do not count as income for public benefit programs.

Reference
https://uscode.house.gov/view.xhtml?req=(title:26%20section:529A%20edition:prelim)

Myth: An unlimited amount of money can be deposited into an ABLE account.

Fact: Contributions are limited annually, with specific rules based on beneficiary employment and state programs.

Details https://www.ssa.gov/ssi/spotlights/spot-able.html?tl=11

https://www.texasable.org/about/

Myth: If I save all my earnings in an ABLE account or have it directly deposited, Social Security will not count the earnings.

Fact: Social Security applies standard income counting rules to earnings, regardless of direct deposit into an ABLE account.

Details https://secure.ssa.gov/poms.nsf/lnx/0501130740

Myth: Once my ABLE account exceeds $2,000, I lose my eligibility for SSI benefits and Medicaid.

Fact: ABLE accounts do not affect eligibility for SSI or Medicaid up to a certain limit.

More info https://www.ssa.gov/ssi/spotlights/spot-able.html?#tab2.

Myth: ABLE Accounts impact eligibility for Federal SNAP Benefits.

Fact: USDA and HUD disregard ABLE account balances and contributions (excluding income from a job) when determining eligibility for SNAP and housing benefits.

Sources https://ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-C/part-273

https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2019-09.pdf

Myth: You can't have both an ABLE account and a Special Needs Trust at the same time.

Fact: There are no legal restrictions on benefiting from both types of accounts, offering individuals with disabilities more flexibility.

More info https://www.ssa.gov/ssi/spotlights/spot-able.html

Myth: If my state does not have an ABLE program, there is no opportunity for me to participate in the program.

Fact: Congress removed the residency requirement in 2015, allowing individuals to enroll in any state's ABLE program that accepts out-of-state residents.

Details https://www.ssa.gov/ssi/spotlights/spot-able.html.

Myth: In all circumstances, the account must pay Medicaid the remaining balance upon the death of the beneficiary.

Fact: After covering Qualified Disability Expenses, remaining funds may reimburse Medicaid for services provided.

Further details https://www.ssa.gov/ssi/spotlights/spot-able.html.

These corrections clarify the realities surrounding ABLE accounts, addressing common misconceptions with accurate information and resources.

Comparing Different State Programs to Find the Best ABLE Account

An ABLE Account may be opened in either your state of residence or any other state allowing out-of-state residents to participate. Except for Idaho, North Dakota, South Dakota, and Wisconsin, all states offer ABLE accounts to residents of the state.

The following states and the District of Columbia allow out-of-state residents to participate in their ABLE Account Program

Alabama
Alaska
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Georgia
Illinois
Indiana
Iowa
Kansas
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Montana
Nebraska
Nevada
New Jersey
New York
North Carolina
Ohio
Oregon
Pennsylvania
Rhode Island
Virginia

The following states are only open to residents of their state
Arizona
Florida Hawaii
Kentucky
Louisiana
Maine
Missouri
New Hampshire
New Mexico
Oklahoma
South Carolina
Tennessee
Texas
Utah
Vermont
Washington
West Virginia
Wyoming

You can use the following link to find information about specific state ABLE Account programs including the link to the program website:

Visit https://www.ablenrc.org/select-a-state-program/

ABLE Account Programs offered by the different states have similar features and benefits. What varies from plan to plan are fees, costs, maximum balance amount, and the amount of money needed for a deposit. When comparing programs you are encouraged to consider the following:
Account Maintenance Fees
Investment Fees
Fees for Printed Statements or Savings from E-Statements
Debit Card and Transaction Fees
Maximum Allowed Account Balance
Minimum Amount of Initial Deposit
Minimum Amount of Additional Deposits
Fees to Move the ABLE Account to a Different State Plan

Before selecting a plan, we recommend the following:
Review the Plan Disclosure Documents before opening or changing investment options.

- Understand fees for the plan.
- If choosing an investment option, understand how funds are allocated.
- Consult with a Financial Planner before making any investment decisions.

When you open an ABLE Account, it will be done online. You will need the following to open the account:

- Personal Details including Social Security Number
- Bank Account and Routing Number
- Selection of Investment Option

Once the ABLE Account is opened, Test Deposits are typically done to verify the bank account is correctly linked. You will need to verify these test deposits with your ABLE Account.

What are Qualified Disability Expenses?

A qualified disability expense refers to any expense related to the ABLE account owner's blindness or disability that enhances and/or maintains their health, independence, and/or quality of life.

The IRS has broadly interpreted what are qualified disability expenses including these distinctions.

- Not necessarily a medical necessity.
- Can benefit others besides the account owner.
- Funds used for qualified disability expenses from an ABLE account are not considered taxable income.
- ABLE account funds supplement Medicaid benefits without replacing them.
- The ABLE account owner does not require authorization, pre-approval, or permission to spend funds.

Spending ABLE account funds on non-qualified disability expenses incurs tax penalties (10% penalty plus taxable as income) and may affect eligibility for federally funded benefits.

We provide a broadly construed list of potential qualified disability expenses. Other items not listed may still qualify, and items on these lists may not apply to all persons as qualified disability expenses vary from individual to individual.

Education
Tuition (pre-school through post-secondary)
School Supplies
Books
Tutoring
Meal Plans
Attendant Fees

Housing (Must be spent on housing expenses the same month)
Rent
Mortgage
Insurance
Property Taxes
HOA Dues
Utilities

Transportation
Car payment/lease/titling/registration/insurance/fuel/maintenance
Bus
Taxi or Uber/Lyft
Train and Airplane Fares

Employment Training and Support
Job Coach
Continuing Education Classes
Costs Associated with Certifications, Licenses, Job Training
Tools of the Trade
Work Uniforms
Entrepreneur Start-Up Costs
Moving Expenses
Interview Preparation and Resume Development
Transportation to/from work
Financial Management Education and Assistance

Assistive Technology and Personal Support Services
Text-to-Speech
Screen Readers
iPhone/Smart Phone/Tablet
Cook
Housekeeper
Mobility devices
Home Automation
Augmentative Communication
Alerting Devices

Health, Prevention, and Wellness
Unreimbursed Medical Expenses
Dietary Supplements
Healthcare Products
Health Insurance
Habilitation and Rehabilitation Services
Durable Medical Equipment
Therapy
Respite Care
Vacation

Financial Management and Administrative Services
Tax Preparation
Financial Advisor
Legal Guardianship

Legal Fees
Attorney's Fees
Court Filing Fees
Trust and Estate Planning

Expenses for Oversight and Monitoring
Guardianship
Financial Management Software

Basic Living Expenses
Food
Housing
Clothing
Household Supplies and Furnishings
Utilities

Funeral and Burial Expenses
Funeral
Casket
Burial or Cremation
Religious or Civic Official

Maintaining Documentation of Use of Funds

You need to maintain documentation when money is spent from an ABLE account. You could always be asked to provide this documentation later to verify the spending was for a qualified disability expense.

This documentation must show spending was for a qualified disability expense, and should include the following information:

- That it is related to a disability or blindness,
- That it increases and/or maintains the health, independence and/or quality of life.
- What was purchased
- When purchased
- Where purchased
- The amount
- The receipt, bill of sale, or similar document needs to be saved.

We encourage you to consult with a tax consult on saving your documentation and it is generally recommended that you keep documentation for at least 3 years. Some circumstances could require you to keep documentation for up to 7 years. Here is a snapshot of how long you should keep documentation:

- Most people need to only keep records for 3 years.
- If you claim a worthless security, the IRS needs you to maintain records for 7 years.
- If there is unreported income more than 25% of gross income, records need to be kept 6 years.
- If self-employment or employment taxes are involved, keep records for 4 years.
- Length of record retention is specific to tax year in question.

We have provided a sample form located at the back of this binder that you may duplicate and use to maintain documentation of spending from an ABLE account. We encourage you to make photocopies or scan receipts, because receipts fade over time.

Some tips in completing the form include:

- Provide just enough detail to explain the how questions
- This is just a sample form; you could make your own
- You can scan completed forms if you prefer digital records over physical copies; be sure to back up files to the cloud
- The receipt proves the expenditure and shows what was purchased, when it was purchased, where it was purchased, and the price.
- Develop an organization system to easily retrieve documents, such as by date, by month and year, etc.

When using the provided form and answering the question, “How is this expenditure related to the disability (or blindness) of the ABLE account owner?”, answer in terms of the disability, such as “Because of the disability, …” A symptom of the disability does not need to be provided; you just must establish a connection to the disability. For example, “Because of the disability, Tom has few friends and responds easily to electronic devices.”

When using the provided form and answering the question, “How does this expenditure increase and/or maintain health, independence, and/or quality of life of the ABLE account owner?”, answer in terms of the benefit to the person, such as,

“...gives him increased confidence in competitive situations in a safe environment.”

“…gives her increased stamina when walking.”

“…allows him to mix ingredients to prepare meals.”

You are not required to include anything prescribed for medical or therapeutic reasons.

Choosing between Investment Options in ABLE Accounts

In Texas, guardians who use an ABLE Account are considered to have met the standard in respect to investing the ward's estate. That means, even if it is a bad investing year or the return on a bank deposit is low because of economic reasons, the probate court will still consider the guardian to have met the standard. Here is the section from Texas law.

Sec. 1161.003. INVESTMENTS THAT MEET STANDARD FOR INVESTMENT. A guardian of the estate is considered to have exercised the standard required by Section 1161.002(a) with respect to investing the ward's estate if the guardian invests in the following:
…
(7) an ABLE account established in accordance with the Texas Achieving a Better Life Experience (ABLE) Program under Subchapter J, Chapter 54, Education Code.

Typically, within an ABLE account, you can choose between a Deposit option, such as a checking or savings account that may or may not provide interest income, and investment options that come with risk of loss of funds.

Funds held in a deposit option are insured by the FDIC and funds held in investment options are typically mutual funds or stock market indexes, which are managed by a fund manager, and these funds are NOT insured by the FDIC.
Both deposit and investment options typically have fees.

Before making any decision, we encourage you to read the plan documentation and consult with a financial planner.

Texas uses four investment options to create aggressive, moderate, moderately conservative, and conservative growth allocations. There is more risk and more reward for aggressive allocations and less risk and less reward for conservative growth allocations. The same mutual funds and stock indexes are used in each of the four investment options but are weighted differently.

Growth means the value of the fund value has increased due to increases in stock prices with little to no dividends paid on stocks.

Income means the fund pays participants money from dividends on stocks it holds or interest from bonds, and this can happen even if the stock market decreases in value.

Aggressive Allocation
The Aggressive Allocation Option seeks to provide growth of the investment.

This option may be appropriate for those who will be investing for 10 years or longer, want more potential to grow their investment and are willing to tolerate the ups and downs of the stock market.

Moderate Allocation
The Moderate Allocation Option seeks to provide a combination of growth and current income.

This option may be appropriate for those who will be investing for 5 years or longer, want moderate growth and seek less fluctuation in their investment but must still be willing to tolerate the ups and downs of the stock market.

Moderately Conservative Allocation
The Moderately Conservative Allocation Option seeks to provide current income and some growth.

This option may be appropriate for those with a primary objective of current income but must still be willing to tolerate the ups and downs of the stock market.

Conservative Allocation
The Moderately Conservative Allocation Option seeks to provide current income and modest growth.

This option may be appropriate for those with a primary objective of income but must still be willing to tolerate the ups and downs of the stock market.

Remember to consult with a financial planner when choosing to allocate funds into an investment option. This document is not, nor is The Arc of El Paso a substitute for a financial planner.

Financial planning and consulting fees could be considered a qualified disability expense.

Using ABLE Accounts to Save for a Larger Purchase

Because an ABLE account allows for a huge amount of money to be saved, it makes sense that an ABLE account could be used to save for a larger purchase. Remember that all spending from an ABLE account must be for qualified disability expenses.

The previous section, "What are Qualified Disability Expenses?" shows that many larger purchases might qualify as qualified disability expense. Remember, to be a qualified disability expense, the purchase must:

- Be related to the disability
- Maintain or improve the health, wellness, and quality of life of the ABLE account owner.

The IRS has provided guidance that shows ABLE account funds can be used as an outright purchase, a down payment and/or to make monthly payments for a house and car that is owned by the ABLE account owner.

https://www.texasable.org/wp-content/uploads/dlm_uploads/2022/09/irs-able-guidance.pdf

If you are trying to save for a larger purchase, you can use a spreadsheet with money formulas to figure out how much money can be saved by saving each month.

This can help when trying to save money for a larger purchase (higher cost qualified disability expense).

You can create your own or download a free spreadsheet that works with either Excel or Google Sheets.

If you find yourself not being able to save the amount of money you had hoped for, you might try these strategies:

- When you get a pay or COLA raise, take some of that and save it each month.
- When you get money as a gift or a tax refund, save some of that.
- Cut back on a streaming service or subscription you don't use as much.
- Eat out one time less per month.

If your money in the ABLE Account isn't growing fast enough, you might try these strategies:

- Maintain awareness of interest rates and expected rates of return on investments
- Match your deposits and investments to what you can mentally tolerate to grow money fastest.

Having a Job and an ABLE Account

The “ABLE to WORK” provision, passed as part of the Tax Cuts and Jobs Act of 2017, permits certain ABLE account owners who work and earn income to contribute above the annual ABLE contribution limit.

How Much More?
In Texas (and the lower 48 states and DC) the lesser of gross income for the year or $15,060 (federal poverty guidelines) in 2024. In 2024 the amount for Alaska is $18,810 and for Hawaii is $17,310.

If you work in Texas, the maximum that could be contributed to an ABLE account in 2024 is $18,000 from all sources, and up to $15,060 from work, for a maximum combined total of $33,060.

To be eligible to save more into an ABLE account, the ABLE account holder, or their employer, cannot contribute into a defined contribution plan for the ABLE account holder such as 401(a), 403(a) or 401(k) plan; an annuity such as a 403(b) contract; or an eligible, deferred compensation plan, such as a Section 457(b) plan in the calendar year.

If you receive SSDI, are working, and deposit part or all your earnings into an ABLE Account, Social Security still considers this deposited money as "countable earnings" and applies Work Incentives to determine if you're engaging in substantial gainful activity (SGA).

Deposits made into an ABLE account by others, such as your family members, friends, and employers are not considered countable income for determining SGA.

If you receive SSI, are working, and deposit part or all your earnings into an ABLE Account, Social Security still considers this deposited money as "countable earnings” that will reduce and possibly even eliminate the SSI payment after impairment related work expenses are considered.

Deposits made into an ABLE account by others, such as your family members, friends, and employers are not considered countable income for SSI.

A worker who contributes into their own ABLE account may be eligible to claim the Savers Credit on their federal tax return. The difference between the amount contributed to the ABLE account and the amount of distributions from the ABLE account, create the amount eligible for the Savings Credit.

For the Saver’s Credit, the maximum contribution that can be claimed is $2,000 for an individual. The amount of the credit varies from 50% to 10% based on income. The Savers Credit is non-refundable, meaning you can only get back up to your tax liability for the year. To be eligible to claim the savers credit you:

- Must be 18 our older, and,
- Not claimed as a dependent on another person’s tax return, and,
- Not a student.

Understanding the Differences Between a Special Needs Trust and an ABLE Account

Both Special Needs Trusts and ABLE accounts are good options to manage funds and maintain eligibility for public benefits.

A Special Needs Trust is a legal financial tool designed to protect the assets of an individual with disabilities while preserving their eligibility for means-tested public benefits, such as Supplemental Security Income (SSI) and Medicaid. Both measure family income against income and asset eligibility guidelines. A Special Needs Trust is also sometimes called a Supplemental Needs Trust.

A Special Needs Trust supplements public benefits to enhance quality of life and to improve the well-being of the person benefitting from the trust.

Remember ABLE Accounts are used for qualified disability expenses, which are expenses related to the ABLE account owner's blindness or disability that is for their benefit in increasing and/or maintaining their health, independence and/or quality of life.

The trustee controls the Special Needs Trust. This could be a family member, friend, or a professional.

Remember with an ABLE account, the person benefitting from the ABLE account, or their guardian, controls the ABLE account.

There is no limit how much money many be put into a Special Needs Trust. Money that is in the family's possession before placing it into a Special Needs Trust could impact eligibility for SSI, Medicaid, and other Federal means-tested programs.

Remember with an ABLE account in 2024 up to $18,000 per year can be put into the ABLE account and in Texas up to $500,000 can be held by the ABLE account.

Special Needs Trusts can cover the cost of medical and dental care, therapy and rehabilitation services, transportation, education and vocational training, entertainment and recreation, legal and advocacy fees, and other disability-related expenses.

Using a Special Needs Trust to pay for housing or food could reduce the SSI payment dollar for dollar.

Remember with an ABLE account, qualified disability expenses could include education, housing, transportation, employment training and support, assistive technology and personal support services, health & wellness & prevention, financial management and administrative services, legal fees, oversight and monitoring, basic living expenses (including food), and funeral and burial expenses.

Funds that are spent are solely for the benefit of the person benefiting from the Special Needs Trust or ABLE account. If funds are misused, public benefits could be jeopardized, and tax penalties could be imposed.

Some families, especially where a guardian manages the ABLE account, use the Special Needs Trust to hold money and then annually take money from the Special Needs Trust to deposit into the ABLE account and qualified disability expenses are paid from the ABLE account.

Both Special Needs Trusts and ABLE Accounts require maintaining documentation of expenditures. If the person benefitting has a guardian, this documentation will almost always be required by the court overseeing the guardianship. Additionally, the IRS or Social Security Administration could inspect your records.

After the death of the beneficiary, money in a Special Needs Trusts may or may not be subject to Medicaid Payback. Remember in an ABLE account, remaining funds are subject to Medicaid Payback.

Property owned by the beneficiary and placed into a Special Needs Trust makes the Special Needs Trust a First-Party Trust and makes the Special Needs Trust subject of Medicaid payback.

Property not owned by the beneficiary and placed into a Special Needs Trust makes the Special Needs Trust a Third-Party Trust and makes the Special Needs Trust NOT subject of Medicaid payback.

A third-party special needs trust is typically established through the will and testament of the parents or other family members, or a living trust to avoid probate. These can also be established as a single act. Typically, these are funded upon the death of the parents or other family members who fund the trust.

Ask your attorney about whether your Special Needs Trust is a first-party trust or a third-party trust.

If the beneficiary is the named recipient of a life insurance death benefit, that requires a first-party trust. If a Special Needs Trust is first established and the Special Needs Trust is the named recipient of a life insurance death benefit, that is a third-party trust. Any inheritance from another person would follow the same rules.

A Pooled Special Needs Trust can be used to establish both first-party and third-party Special Needs Trusts. Pooled Special Needs Trusts are administered by non-profit organizations and could reduce costs.

The Arc of Texas maintains a Master Pooled Trust.
You can find out more at https://www.thearcoftexas.org/mpt/

Some quick facts about the Master Pooled Trust:

- Managed by The Arc of Texas
- Trustee is Providence First Trust Company
- JP Morgan Chase is Financial Administrator and Investment Advisor
- $600 to open, $300 minimum annual fee
- Fees not collected until funded

The Arc of El Paso makes no recommendation for participation in the Arc of Texas Master Pooled Trust and provides this information for your review.

We encourage you to consult with an attorney regarding the use of a special needs trust in your situation, and whether participation in a Pooled Special Needs Trust would be advisable.