



Financial Planning for Disabilities

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Empowering Futures with Special Needs Trusts and ABLE Accounts

Establishing a Special Needs Trust and ABLE Account

Establishing a special needs trust involves navigating complex legal processes, and it's advisable to work with an attorney specializing in special needs planning. This ensures the trust is set up correctly and complies with all relevant laws and regulations. Here's why you should consider a special needs trust for your child with a disability:

Why You Need a Special Needs Trust for Your Child with a Disability

1. **Preserve Government Benefits:** Special needs trusts ensure that your child remains eligible for essential government benefits like Medicaid and SSI, which have strict asset and income limits.
2. **Provide for Additional Needs:** These trusts can fund expenses not covered by government benefits, such as specialized therapies, education, personal care attendants, recreational activities, and other quality-of-life enhancements.

3. **Manage Assets Efficiently:** A special needs trust can provide professional management of funds, ensuring that the assets are used wisely and for the intended purposes throughout your child's lifetime.
4. **Protect Against Exploitation:** By placing assets in a trust, you can protect them from potential exploitation or misuse by third parties, ensuring they are used solely for the benefit of your child.
5. **Estate Planning:** Special needs trusts are crucial in estate planning, allowing family members to leave inheritances to a person with a disability without jeopardizing their government benefits.
6. **Peace of Mind:** Knowing that your child will be financially supported and their benefits protected provides peace of mind for parents and guardians, ensuring your child's well-being even after you are no longer able to provide care directly.

Types of Special Needs Trusts

1. **First-Party Special Needs Trust:**
 - **Purpose:** Holds assets that belong to the person with a disability, such as inheritance, personal injury settlements, or savings.
 - **Funding Source:** Assets owned by the beneficiary.
 - **Requirements:** Must be established by a parent, grandparent, guardian, or court. The beneficiary must be under 65 when the trust is established.
 - **Medicaid Payback:** Upon the death of the beneficiary, any remaining funds in the trust must be used to reimburse Medicaid for services provided.
2. **Third-Party Special Needs Trust:**
 - **Purpose:** Holds assets provided by someone other than the person with a disability, typically parents or other family members.
 - **Funding Source:** Assets gifted or bequeathed to the trust by third parties.
 - **Flexibility:** Often used in estate planning to ensure that a person with a disability can benefit from family assets without affecting their eligibility for government benefits.
 - **No Medicaid Payback:** Upon the death of the beneficiary, the remaining funds can be distributed according to the trust's terms.
3. **Pooled Trust:**
 - **Purpose:** Managed by a nonprofit organization, this type of trust pools the resources of many beneficiaries for investment purposes while maintaining separate accounts for each beneficiary.
 - **Funding Source:** Can be funded with assets from the beneficiary or third parties.
 - **Cost-Effective:** Often more cost-effective for families with smaller amounts of assets, as administrative costs are shared among all participants.
 - **Medicaid Payback:** For first-party pooled trusts, Medicaid payback rules apply upon the beneficiary's death.

ABLE Accounts

An Achieving a Better Life Experience (ABLE) account is a tax-advantaged savings account specifically designed for individuals with disabilities and their families. It allows them to save

and invest money for disability-related expenses without affecting eligibility for government benefits like Medicaid and SSI.

Benefits of an ABLE Account

1. Maintaining Eligibility for Benefits:

- **Resource Exclusion:** Funds in an ABLE account (up to a certain limit) are not counted as resources when determining eligibility for SSI and Medicaid. Specifically, the first \$100,000 in an ABLE account is excluded from the SSI resource limit.
- **SSI Impact:** If the account balance exceeds \$100,000, SSI benefits will be suspended but not terminated. Medicaid benefits remain unaffected regardless of the account balance.

2. Tax Advantages:

- **Tax-Free Growth:** Earnings on the money in an ABLE account grow tax-free.
- **Tax-Free Withdrawals:** Withdrawals for qualified disability expenses are also tax-free.

3. Flexibility in Use:

- **Qualified Disability Expenses:** Funds can be used for a wide range of expenses related to the beneficiary's disability, such as education, housing, transportation, and employment training.

Limitations of an ABLE Account

● Contribution Limits:

- **Annual Contribution Limit:** The total annual contributions to an ABLE account from all sources are capped at the annual gift tax exclusion amount, which is \$17,000 for 2024.
- **Total Contribution Limit:** Only the first \$100,000 is excluded from the resource limit for SSI eligibility.

● Investment Options:

- **State-Determined Options:** The investment choices within an ABLE account are determined by the individual state programs and are usually limited to a small selection of options.
- **Frequency of Changes:** Account owners can change their investment options only twice per calendar year.

Both special needs trusts and ABLE accounts offer unique advantages and limitations, and often using both in conjunction provides a comprehensive financial strategy for securing the future of a person with disabilities. Planning for the future is crucial, especially for individuals with disabilities who need to secure their financial well-being while preserving access to essential government benefits. Special Needs Trusts and ABLE Accounts are two vital tools designed to help achieve these goals. Let's explore how each serves unique purposes and how they can complement one another in comprehensive financial planning.

Understanding Special Needs Trusts

Special Needs Trusts are legal arrangements that allow individuals with disabilities to receive funds without jeopardizing their eligibility for government assistance. These trusts are

essential in ensuring that beneficiaries can enjoy additional quality-of-life improvements without affecting their Social Security Income (SSI) or Medicaid benefits.

Benefits of Special Needs Trusts:

1. **Preserving Government Benefits:** Trusts ensure eligibility for essential programs.
2. **Providing for Additional Needs:** Funds can cover expenses beyond basic necessities.
3. **Efficient Asset Management:** Trusts safeguard the beneficiary's financial resources.
4. **Protection Against Exploitation:** Trustees manage and disburse funds responsibly.
5. **Estate Planning:** Trusts can be part of a broader strategy to manage family wealth.
6. **Peace of Mind for Families:** Knowing that resources are managed and protected.

Types of Special Needs Trusts:

- **First-Party Trusts:** Funded by the beneficiary's assets, with Medicaid payback.
- **Third-Party Trusts:** Established by family or friends, without Medicaid payback.
- **Pooled Trusts:** Managed by nonprofits, ideal for smaller assets.

Exploring ABLE Accounts

ABLE Accounts offer a tax-advantaged way for individuals with disabilities to save and pay for disability-related expenses. These accounts enhance financial independence while maintaining eligibility for government benefits.

Benefits of ABLE Accounts:

1. **Eligibility for Benefits:** Savings in ABLE accounts do not count as resources for SSI or Medicaid.
2. **Tax Advantages:** Enjoy tax-free growth and withdrawals for qualified expenses.
3. **Flexibility:** Cover a wide range of expenses, from education to healthcare.

Limitations of ABLE Accounts:

- **Contribution Limits:** Annual and lifetime contribution caps apply.
- **Investment Options:** Limited to state-determined options with restricted changes.

Choosing the Right Path

Deciding between a Special Needs Trust and an ABLE Account depends on individual circumstances, including financial goals, asset amounts, and eligibility for government benefits. Often, using both tools together offers the most robust financial strategy.

Conclusion

Financial planning for individuals with disabilities is not just about managing money—it's about securing a future of independence and quality of life. Consulting with a specialized attorney can provide guidance tailored to specific needs, ensuring the best use of Special Needs Trusts and ABLE Accounts. Empower your loved ones by taking this vital step towards financial security.

For more detailed guidance, consider attending a Q&A session with a financial planning expert or attorney specialized in disability planning.