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Section 529A Qualified ABLE Programs: Tax-Favored Savings Vehicle for Disabled Individuals

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First effective in 2015, the federal Achieving a Better Life Experience ***(ABLE) Act*** created Internal Revenue Code section 529A qualified ABLE programs, which provide a means of tax-favored savings for disabled individuals.

Section 529A qualified ABLE programs are modeled on Section 529 qualified tuition programs and must be implemented by individual states. States that have already enacted ABLE programs include: Kansas, Virginia, North Dakota, Arkansas, Utah, Louisiana and Massachusetts. Many other states have legislation pending.

The features of 529A programs include:

- Accounts are only available for individuals who became disabled before age 26. Disability is defined in accordance with the Social Security Act.
- Contributions are made on an after-tax basis and are currently limited to $14,000 per year per beneficiary from all sources.
- Account balances of $100,000 or less will not disqualify the disabled individual from Supplemental Security Income (SSI). SSI payments will be suspended when account balances exceed $100,000, but will resume when balances fall to $100,000 or less. Medicaid eligibility is not impacted by the amount of a 529A account balance.

Previously, SSI and other public benefits were not available to disabled individuals with $2,000 or more in assets.

- Earnings are tax free.
- Distributions are tax free if they are used for qualifying expenses. Qualifying expenses include education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, oversight and monitoring, and funeral and burial expenses.

- Distributions that are used for nonqualifying expenses are taxed as ordinary income and are subject to an additional 10% penalty.
- Distributions may only occur in the state where the disabled individual resides.

Presumably, this will facilitate compliance regulation.

- Any balance left in the 529A account after the disabled individual's death is subject to a recoupment claim by the state's Medicaid program for payments made after the 529A account was opened.

Section 529A ABLE programs provide a familiar formula for low cost tax-favored savings that will enable families to provide support for disabled loved ones without jeopardizing access to public benefits — at least as long as account balances do not exceed $100,000. It is a welcomed benefit that is expected to see wide adoption by states across the country.

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