

# ***Lynne N. Clark, P.C.***

A Virginia Professional Corporation  
Attorney and Counselor at Law

---

7003 Backlick Court, #100  
Springfield, VA 22151  
e-mail: [lynne@lynnenclark.com](mailto:lynne@lynnenclark.com)

Phone: (703) 256-7900  
FAX: (703) 256-7902  
Admitted in Virginia and D. C.

---

## **REPORT OF COUNSEL**

**March 2017**

### **ABLE Accounts**

After more than a decade of lobbying by disability advocates, Congress passed the Achieving a Better Life Experience Act (ABLE) in December of 2014. There was thought to be a need to allow certain disabled persons the right to establish tax advantaged savings accounts. The purpose of this new type of account is to encourage and assist a disabled individual and their family to save private funds to help support the disabled individual. Funds in an ABLE account may be used to maintain health, independence and quality of life and to provide secure funding for disability-related expenses. An ABLE account will supplement, but not supplant, benefits provided through Supplemental Security Income (SSI) and Medicaid.

#### ***Requirements to Qualify for this Program***

To qualify to establish an ABLE account an individual must be blind or disabled before their 26<sup>th</sup> birthday and

i) entitled to benefits under the Social Security Act (SSI or SSDI); or

ii) who self-certify that they have a condition listed on the Social Security Administration list of compassionate allowances conditions and have a signed

qualifying disability diagnosis from a qualified physician; or

iii) who self-certify that they have an eligible disability and have a signed qualifying disability diagnosis from a qualified physician.

An ABLE account may be opened by the disabled person in his or her own capacity if over the age of 18 and competent to make financial decisions for him or herself. If the disabled individual cannot open the account, a guardian or agent under a power of attorney may do so. Parents can open an ABLE account for a minor. An account may be opened online at [www.able-now.com](http://www.able-now.com)

#### ***Permitted Expenditures***

The funds in an ABLE account can help maintain or improve a person's health, independence and quality of life. The funds can be used for education, housing, transportation, employment, training and support, assistive technology, health, financial management, legal fees, funeral and burial expenses. There is no provision in the law permitting the funds in an ABLE account to be used for recreation.

Total distributions from the account will be

reported to the IRS annually. Qualified Distributions are not taxable income to the disabled person.

### ***Limitation on Amount Contributed Annually***

Up to \$14,000 in cash may be contributed to the ABLE account annually. The disabled person is permitted to have only one ABLE account.

### ***Tax Deduction and Deferral***

There is no federal tax deduction for funds contributed to the ABLE account; however, there is a Virginia tax deduction of up to \$2,000 annually for contributions to an ABLE account.

Funds contributed to the ABLE account can grow on a tax deferred basis much like an IRA account.

### ***Amount that Can Be Accumulated***

Up to \$100,000 can be accumulated in an ABLE account before Social Security Disability benefits are suspended.

### ***Payback***

At the death of the qualified beneficiary, the funds remaining in the ABLE account may be used for their funeral and burial expenses and to pay outstanding bills of the disabled beneficiary before any remaining funds are distributed to Medicaid.

### ***Administered by the Virginia 529 Plan***

ABLE accounts can be established on line and the ABLE account will be managed by the Virginia 529 Plan.

To open an account go to: [www.able-now.com](http://www.able-now.com)

### ***Additional Resources***

[www.commonwealthcommunitytrust.org](http://www.commonwealthcommunitytrust.org)

[www.ablenrc.org](http://www.ablenrc.org)