



STATE OF VERMONT
OFFICE OF THE STATE TREASURER

VERMONT ABLE TASK FORCE
August 31, 2015

Overview

- On **December 19, 2014** Congress passed the Achieving a Better Life Experience Act of 2014 (ABLE Act). The act allows states to establish a tax advantaged savings account under Section 529A to help individuals and families finance disability needs.
- At least 30 states have adopted ABLE Act regulations through the passing of enabling legislation.
- Vermont passed enabling ABLE Legislation (S.138) in ACT 51 during the 2015 Legislative Session; however, a program in Vermont will not be implemented until final IRS regulations have been issued. The Governor signed Vermont's ABLE legislation into law on **June 3, 2015**.
- On **June 19, 2015** the Internal Revenue Service issued proposed (preliminary) regulations titled *Guidance Under Section 529A: Qualified ABLE Programs*, to implement the provisions of the ABLE Act. Similar to a section 529 college savings program, a qualified ABLE program is to be established and maintained by a state. The assets accumulate on a (federal) tax-free basis and although the federal law sets forth the authority to establish these tax advantaged accounts, each state must develop their own enabling legislation making the accounts available.¹

¹ <http://www.nasact.org/>

Eligibility

- An eligible individual is a person (1) who is entitled to benefits on the basis of disability or blindness under the Supplemental Security Income (SSI) program or under the Social Security disability, retirement, and survivors program OR (2) who submits certification that meets the criteria for a disability certification (to be further defined in final IRS regulations). An eligible individual's disability must have occurred before the age 26.² The total amount of annual contributions cannot exceed the annual gift tax exclusion amount (currently \$14,000). Distributions of qualified disability expenses are tax-free (federal).
- Under the federal statute, qualified expenses would 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; expenses for oversight and monitoring; and funeral and burial expenses.³
- The ABLE Act also allows the IRS to qualify other expenses by regulation. In its proposal, the IRS takes a broad view of the term "qualified disability expense" to include not only expenses which are medical necessities, but also those that can improve the quality of life.
- **NOTE:** For a more detailed description of ABLE please see the attached Overview of ABLE as provided by The Arc (www.thearc.org).

Vermont Population of Eligible Individuals

- In understanding ABLE implementation—States across the country have been in the process of understanding how many individuals would be eligible in their respective states.
- Understanding volume is an important consideration in analyzing a financial product, as well as a vital starting point, in understanding how to best engage the diverse groups of Vermonters who will be interested in ABLE and for whom we aim to serve with the best possible product.

² www.thearc.org

³ For a more detailed list of qualified expenses please visit: <http://www.aahd.us/2015/02/able-act-fact-sheets/>

- In Vermont, through a collaborative effort with the Department of Disabilities, Aging, and Independent Living; the Department for Children and Families; the Agency of Human Services, the Vermont Developmental Disabilities Council; and other stakeholders, we arrived at an estimate of **12,828** individuals in Vermont who would be eligible for an ABLE account as of August 2015.
- The **12,828** estimate was arrived at by combining individuals currently receiving Supplemental Security Income for the Blind and Disabled (SSIBD) and SSDI benefits in Vermont who were found to be disabled prior to age 26:
 - SSIBD – 5,654
 - SSDI – 7,174

National Update/IRS Regulations Update

- The preliminary IRS ABLE regulations were released on June 19, 2015. These preliminary regulations were released by the IRS with the intention of soliciting public comment.
- State Treasurer Pearce has been involved with the College Savings Plan Network (CSPN) and the National Association of State Treasurers (NAST) in an effort to collaborate with like-minded states, as well as in communicating to the IRS, concerns and to underscore the importance of having final regulations delivered with respect to timely implementation.
- State Treasurer Pearce will be co-authoring a letter with members of NAST and CSPN through the IRS Public Comment process to highlight any concerns regarding the preliminary regulations.
- Stakeholders and state agencies have been encouraged by the IRS to comment on the preliminary regulations.

- Public comments are due on **September 21, 2015**. The IRS public hearing for ABLE regulations is scheduled for **October 14, 2015**. Comments may be submitted electronically, by mail, or hand delivered to the IRS. The proposed regulations and more information is available at⁴: <https://www.federalregister.gov/articles/2015/06/22/2015-15280/guidance-under-section-529a-qualified-able-programs>
- A representative of the Office of the State Treasurer attended an August 2015 meeting with other State Treasurers' Offices, Stakeholders, and US Treasury/IRS in August to discuss collaboration with other states and to address regulatory concerns with respect to proposed regulations.

State Decisions

- Each state will need to decide whether the program will be state-run; whether to select another entity, such as a financial services firm, to run the program; or whether to contract with another state to allow its own residents to use the qualified ABLE program of another state.⁵
- The Office of the State Treasurer has maintained that it would not be inclined to implement a program or submit a Request for Proposals (RFP) for vendor services for an ABLE Program until final IRS regulations are issued.

⁴ <http://www.nasact.org/>

⁵ www.thearc.org

Next Steps

- The Office of the State Treasurer and the Vermont ABLE Task Force will work to satisfy the deliverables of the Vermont ABLE Task Force as directed by (S.138) ACT 51 in statute. *(See attached document for listed deliverables of the Vermont ABLE Task Force.)*
- Additionally, the Office of the State Treasurer will work with stakeholders to compile any questions, concerns, and positive recommendations to include in the report to the State Legislature due on **January 15, 2016**.
- The Office of the State Treasurer will continue to collaborate with all stakeholders, both in Vermont and nationally, to ensure that the best possible program is made available to Vermonters (once the IRS issues final regulations).

Next Meetings

- Wednesday September 30th in the 4th Floor Governor's Conference Room at 109 State Street in Montpelier at 1pm.
- Thursday October 29th in the 4th Floor Governor's Conference Room at 109 State Street in Montpelier at 1pm.

NOTE: The National Disability Institute (NDI) will be holding an informational Webinar on September 24th providing further details on the ABLE ACT

***The ABLE Act Implementation Tax Advantaged Savings Accounts:
New Choices for Families to Create Pathways to a Better Quality of Life.
Webinar, September 24, 2015, 1:00 to 3:00 pm
Sponsored by The National Disability Institute (NDI)***

Weblink: <http://www.realeconomicimpact.org/events/?id=106>