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Calendar

September 9 - Aviv and Liz volunteer for Habitat for Humanity in conjunction with Penica & Associates, office closing early

September 27 - Aviv attending Estate Planning Council lunch

October 5 - Aviv attending Cumberland County Elder Law section meeting

October 13 - Aviv attending Pennsylvania Bar Association Women in the Profession reception

October 26 - Aviv speaking to Mechanicsburg Rotary Club

November 3 - Aviv attending Elder Abuse workshop at Harrisburg Jewish Community Center (open to the public)



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Protecting Families

What's New with Us

As you may have noticed, I took a brief hiatus from newsletter writing for no reason in particular. While on my hiatus I took a quick jaunt to Iceland while Liz held down the fort. Liz also got to go on a vacation (I finally let her!) to Assateague Island.

In legal news, we are in the midst of some appeals that will be very significant for all our clients because it may change the way the State operates certain parts of the Medicaid program. We will keep you posted (we can't believe no one has fought this battle before).

I have been attending several attorney education courses in special needs planning to deepen my knowledge in that area. In July I attended the annual Pennsylvania Elder Law conference which I go to every year to help stay current on all the latest elder law changes and updates.

And finally, in news that could make your life easier that has made our lives easier-we've discovered a new free service that waits on hold for you on the phone! Yes, you read that correctly. Here's the company: <http://www.lucyphone.com/> and we have already used it and it's saving us, not only time, but preventing us from going crazy from listening to horrible hold music! Don't worry, they haven't paid me anything (they don't even know I'm giving them a shout out) but I know the pain of waiting on hold, and just want to pass this on to you in the hopes of saving you some frustration.



Holding a puffin in Iceland

THE ABLE ACT: Another Tool for Special Needs Planning¹

In 2014, the ABLE (“Achieving a Better Life Experience”) Act was signed into federal law. In April 2016 it was signed into Pennsylvania law. The law is aimed at allowing those with special needs to save money without losing needs based public benefits such as SSI or Medicaid.

The ABLE Act Defined

The ABLE Act allows states to establish a savings program for persons with disabilities. The program is modeled after the 529 savings accounts. ABLE accounts may be used to accumulate savings, with certain restrictions, for use by a beneficiary with a disability.

One ABLE account per beneficiary may be established by any contributor (a parent, friend, family member or the person with a disability) for the benefit of an eligible beneficiary of any age so long as the beneficiary met the standard for disability prior to age 26.

Financial Limitations on the ABLE Act

- 1 The annual contribution amount may not exceed the annual gift-tax exclusion amount (currently \$14,000).
- 2 ABLE accounts may only accumulate aggregate contributions up to the state’s limit on qualified tuition programs, Pennsylvania’s is currently \$511,758.
- 3 SSI exempts only the first \$100,000 of an ABLE account. If an individual receives SSI, the ABLE account may not exceed \$100,000. Otherwise, the individual will become ineligible to continue receiving SSI.
- 4 ABLE accounts are “Medicaid Payback” accounts, meaning upon the death of the beneficiary, Medicaid payments made on behalf of the beneficiary must be reimbursed with any remaining funds.

Tax Benefits

ABLE accounts have tax benefits similar to 529 accounts. Qualified distributions from the account are not counted as taxable to either the contributor or the beneficiary. Qualified distributions include expenses paid for the benefit of the beneficiary related to: 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, funeral and burial expenses, and any other expenses approved by the Secretary of Treasury.

In addition, earnings on the ABLE account are not taxable to the contributor or to the beneficiary. Contributions are post-tax income, however in Pennsylvania, there is a Bill pending that would allow contributions to an ABLE account to be deducted from state income tax.

Uses of the ABLE Act

Persons with disabilities who are employed may use an ABLE account to save a portion of their income while remaining qualified for SSI. Families may want to contribute to an ABLE account for loved ones with disabilities in smaller increments. These families may also use other tools available such as Special Needs Trusts, which may be more flexible.

ABLE accounts will not be useful for people disabled due to an accident and who are receiving a judgment or settlement for a significant amount. And, it doesn’t work for a person with special needs receiving a large inheritance

Current Status

Pennsylvania has not finished creating the rules and regulations to implement ABLE accounts so it is not yet available in Pennsylvania. The only state that has ABLE accounts available now, is Ohio. Ohio accounts are open to a resident of any state. However, it is not clear if that account could be transferred to Pennsylvania when accounts are available here and you may miss out on the potential Pennsylvania income tax break.

Conclusion

Every tool has its use and the ABLE account is no exception. Knowing when it is appropriate and knowing when another option might be more so is something we can assist with. Please call us if you would like to learn more about this new law and how it might help. We are always happy to hear from you!

¹ I posted much of this article on my website, but never put it out in the newsletter. I’ve also updated the article to reflect some recent updates.