

DECEMBER 2018 NEWSLETTER

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THE TAX CUTS AND JOBS ACT EFFECT ON ABLE SAVINGS OPTIONS FOR INDIVIDUALS WHO ARE BLIND OR DISABLED

FIRM ANNOUNCEMENTS

A. AMERICA'S MOST HONORED PROFESSIONALS

1. Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo, Esquire was selected for exclusive Membership as one of "America's Most Honored Professionals –Top 1%" for 2018 by the American Registry. The American Registry is the official and authorized recognition partner for some of the following most trusted professional organizations at identifying business and professional excellence: Martindale Hubbell, Five Star Professionals and Vitals. These organizations rigorously gather up peer review ratings, client reviews, professional analysis to ultimately uncover the best of the best professionals.

B. BLOGS

1. The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website www.pozzuolo.com during the past month:

- a. Will Challenge: Petitioner Failed To Demonstrate Decedent Lacked Mental Capacity;
- b. Orphan's Court Imposed A Surcharge On Executrix Of Estate; and,

- c. Will Invalid When Executed Under Undue Influence.

Please visit our website www.pozzuolo.com for more information on these and other relevant business, tax, estates and employment topics.

2. The following are a few of the family law blogs posted on our family law website www.pozzuolofamilylaw.com during the past month:

- a. Motion To Modify Custody To Allow 8 Year Old To Fly Alone- Denied;
- b. Grandparent Visitation Right; and,
- c. Same Sex Ex Partner Has No Standing To Seek Child Custody.

Please visit our website www.pozzuolofamilylaw.com for more information on these and other relevant family law topics.

Please visit our Facebook page to read all of our past and future blogs: Pozzuolo Rodden, PC

THE TAX CUTS AND JOBS ACT EFFECT ON ABLE SAVINGS OPTIONS FOR INDIVIDUALS WHO ARE BLIND OR DISABLED

What is ABLE?

Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. The eligible individual is the owner and designated beneficiary of the ABLE account. An eligible individual may establish an ABLE account provided that the individual is blind or disabled by a condition that began before the individual's 26th birthday.

An ABLE account can be opened for an eligible individual through the ABLE program in any State, if the State permits it. Contributions to the account, which can be made by any person (the account beneficiary, family and friends), must be made using post-taxed dollars but amounts in the account grow on a tax-deferred basis and some states, including Pennsylvania, may allow for state income tax deductions for contributions made to an ABLE account.

Eligible Individual

The ABLE Act limits eligibility to individuals with significant disabilities with an age of onset of disability before turning 26 years of age. In order to open an ABLE account you must have a qualifying disability. A qualifying disability is demonstrated by one of the following: 1) receiving Supplemental Security Income (SSI) benefits based on blindness or disability; 2) receiving Social Security Disability Insurance (SSDI) benefits based on blindness or disability; or, 3) disabled under the Social Security definition – a medically determinable physical or mental impairment with marked and severe function limitation that has lasted, or is expected to last 12 months or result in death, or

have a written disability signed by a physician.

Benefits

There are many benefits to having an ABLE account. All investment earnings remain untaxed as long as the money taken from the account is used for “qualifying disability expenses.” Such expenses include, among other things: medical treatment, health, prevention and wellness, education, tutoring and job training, special-needs transportation, assistive technology, personal support services, housing, legal and administrative fees and other disability-related expenses.

The total annual contributions by all participating individuals, including family and friends, for a single tax year is \$15,000 for the benefit of the designated beneficiary. Starting in 2018, if the beneficiary works, the beneficiary (but no other person, can also contributed part, or all, of their income to their ABLE account limited to the poverty-line amount for a one person household which is \$12,140 in the continental U.S. The amount may be adjusted periodically to account for inflation.

A key feature of ABLE accounts is that the first \$100,000 in an account is not treated as personal assets of the account's beneficiary. This is important because federal law generally bars individuals from receiving assistance such as Medicaid, housing aid and Supplemental Security Income if they have more than \$2,000 worth of financial assets. Severely disabled individuals often need these government services, especially after their parents die or can no longer care for them. Advocates for the disabled have long argued that the \$2,000 cutoff effectively punished those whose families planned ahead.

Until now, distributions from a 529 college savings account could not be rolled over to an ABLE account. The Tax Cuts and Jobs Act (“TCJA”) has changed this rule allowing a 60 day rollover from, a designated beneficiary’s 529 college account to that same beneficiary’s ABLE account.

Additionally, under the TCJA, a 60 day rollover is possible from a 529 college savings account to the ABLE account of a member of the family of the 529 account’s beneficiary. A family member is defined broadly for this purpose and includes the designated beneficiary’s spouse, child or descendant of a child, brother, sister stepbrother or stepsister, father, mother or ancestry of either, stepfather or stepmother, niece or nephew, aunt or uncle, in-law or the spouse of any of the above.

Accordingly, by the TCJA, a beneficiary who has no use for the balance in a 529 college savings account can take distributions from the 529 college account and roll it over within 60 days to an ABLE account for a relative who is disabled or blind and the tax deferral continues.

Pennsylvania ABLE Act

As of January 2018 there are over 30 ABLE programs nationwide inviting eligible individuals to open an ABLE account, most of which are enrolling individuals regardless of their

state of residence.

The Pennsylvania Achieving a Better Life Experience (ABLE) Act follows federal legislation that authorizes states to create ABLE programs. The account maximum in Pennsylvania is \$511,758, although it follows the federal rules that anything over \$100,000 is taken into account when determining other federal benefits. There are specific benefits for PA residents who open an ABLE account in Pennsylvania including, residents can deduct PA ABLE contributions up to \$15,000 per year from Pennsylvania taxable income.

In Pennsylvania, you may choose to direct your contributions to one or any combination of seven investment options offered by the PA ABLE Savings Program. Six are Asset-Allocation Options with varying blends of stocks, bonds, and cash – with the combinations ranging from conservative to aggressive. The seventh is an FDIC-insured interest-bearing checking account with a debit card provided through Fifth Third Bank. Eligible Individuals who can enter into contracts are Account Owners with complete control of their account - a trustee or representative is not needed. To establish an account for minors or adults who lack the capacity to contract, a parent, guardian or person with a Power of Attorney must open the account.

For information on eligibility or how to enroll please feel free to contact us anytime to discuss how we can assist or guide you in achieving a better life experience for a disabled family member.

PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: http://pozzuolo.com/Pubs_Articles.shtml

Corporate/Tax Articles

- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement
- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules

- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory

Estate Planning Articles

- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning
- Divorce Raises The Need For Performing An Estate Planning Review
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Estate Planning For Pet Owners
- Remarriage Situations Can Raise Special Estate Planning Considerations
- Six Proven Estate Planning Techniques
- Special Needs Trust - An Estate Planning Tool For The Disabled
- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.

This newsletter is courtesy of Pozzuolo Rodden, P.C.

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