

111TH CONGRESS  
1ST SESSION

# H. R. 1205

To amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2009

Mr. CRENSHAW (for himself, Mr. MEEK of Florida, Mrs. MCMORRIS RODGERS, and Mr. KENNEDY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Achieving a Better  
5 Life Experience Act of 2009” or the “ABLE Act of  
6 2009”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are as follows:

3 (1) To encourage and assist individuals and  
4 families in saving private funds for the purpose of  
5 supporting individuals with disabilities to maintain  
6 health, independence, and quality of life.

7 (2) To provide secure funding for disability-re-  
8 lated expenses on behalf of designated beneficiaries  
9 with disabilities that will supplement, but not sup-  
10 plant, benefits provided through private insurance,  
11 the Medicaid program under title XIX of the Social  
12 Security Act, the supplemental security income pro-  
13 gram under title XVI of such Act, the beneficiary's  
14 employment, and other sources.

15 **SEC. 3. ABLE ACCOUNTS.**

16 (a) ESTABLISHMENT.—

17 (1) IN GENERAL.—Subchapter F of chapter 1  
18 of the Internal Revenue Code of 1986 (relating to  
19 exempt organizations) is amended by inserting after  
20 part VIII the following new part:

21 **“PART IX—SAVINGS FOR INDIVIDUALS WITH**  
22 **DISABILITIES**

“Sec. 530A. ABLE Accounts.

23 **“SEC. 530A. ABLE ACCOUNTS.**

24 “(a) GENERAL RULE.—An ABLE account shall be  
25 exempt from taxation under this subtitle. Notwithstanding

1 the preceding sentence, such account shall be subject to  
2 the taxes imposed by section 511 (relating to imposition  
3 of tax on unrelated business income of charitable organiza-  
4 tions).

5 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-  
6 poses of this section—

7 “(1) ABLE ACCOUNTS.—The term ‘ABLE ac-  
8 count’ means a trust created or organized in the  
9 United States (and designated as an ABLE account  
10 at the time created or organized) exclusively for the  
11 purpose of paying qualified disability expenses of an  
12 individual who is an individual with a disability and  
13 who is the designated beneficiary of the trust, but  
14 only if the written governing instrument creating the  
15 trust meets the following requirements:

16 “(A) No contribution will be accepted—

17 “(i) except in the case of rollover con-  
18 tributions described in subsection (c)(4)  
19 and sections 223(c)(5)(A)(ii),  
20 408(d)(3)(A)(iii), 529(c)(3)(E), and  
21 530(d)(9), unless it is in cash,

22 “(ii) if such contribution would result  
23 in aggregate contributions for the taxable  
24 year and all preceding taxable years ex-  
25 ceeding \$500,000, and

1           “(iii) after the date on which the ac-  
2           count holder attains the age of 65.

3           “(B) The trustee is—

4                 “(i) a bank (as defined in section  
5                 408(n)),

6                 “(ii) the designated beneficiary,

7                 “(iii) a parent or guardian of the des-  
8                 ignated beneficiary, or

9                 “(iv) a third-party appointed by the  
10                designated beneficiary or a parent or  
11                guardian of the designated beneficiary (in-  
12                cluding a family member of the designated  
13                beneficiary or an organization that admin-  
14                isters pooled and special needs trusts) who  
15                demonstrates to the satisfaction of the Sec-  
16                retary that the manner in which that per-  
17                son will administer the trust will be con-  
18                sistent with the requirements of this sec-  
19                tion.

20           “(C) No part of the trust assets will be in-  
21           vested in life insurance contracts.

22           “(D) The assets of the trust shall not be  
23           commingled with other property except in a  
24           common trust fund or common investment  
25           fund.

1           “(E) Except as provided in paragraph (4)  
2 or (5) of subsection (c), in the case that the  
3 designated beneficiary dies or ceases to be an  
4 individual with a disability, all amounts remain-  
5 ing in the trust not in excess of the amount  
6 equal to the total medical assistance paid for  
7 the designated beneficiary after the establish-  
8 ment of the trust under any State Medicaid  
9 plan established under title XIX of the Social  
10 Security Act shall be distributed to such State.

11           “(2) QUALIFIED DISABILITY EXPENSES.—

12           “(A) IN GENERAL.—The term ‘qualified  
13 disability expenses’ means any expenses  
14 which—

15           “(i) are made for the benefit of an in-  
16 dividual with a disability who is a des-  
17 ignated beneficiary of the trust, and

18           “(ii) approved under regulations es-  
19 tablished by the Secretary.

20           “(B) EXPENSES INCLUDED.—The fol-  
21 lowing expenses shall, to the extent provided  
22 under regulations established by the Secretary,  
23 be qualified disability expenses if made for the  
24 benefit of an individual with a disability who is  
25 a designated beneficiary of the trust:

1           “(i) EDUCATION.—Expenses for edu-  
2 cation, including tuition for preschool thru  
3 post-secondary education, books, supplies,  
4 and educational materials related to such  
5 education, tutors, and special education  
6 services.

7           “(ii) HOUSING.—Expenses for hous-  
8 ing, including rent, mortgage payments,  
9 home improvements and modifications,  
10 maintenance and repairs, real property  
11 taxes, and utility charges.

12           “(iii) TRANSPORTATION.—Expenses  
13 for transportation, including the use of  
14 mass transit, the purchase or modification  
15 of vehicles, and moving expenses.

16           “(iv) EMPLOYMENT SUPPORT.—Ex-  
17 penses related to obtaining and maintain-  
18 ing employment, including job-related  
19 training, assistive technology, and personal  
20 assistance supports.

21           “(v) HEALTH, PREVENTION, AND  
22 WELLNESS.—Expenses for the health and  
23 wellness, including premiums for health in-  
24 surance, medical, vision, and dental ex-  
25 penses, habilitation and rehabilitation serv-

1 ices, durable medical equipment, therapy,  
2 respite care, long term services and sup-  
3 ports, and nutritional management.

4 “(vi) LIFE NECESSITIES.—Expenses  
5 for life necessities, including clothing, ac-  
6 tivities which are religious, cultural, or rec-  
7 reational, supplies and equipment for per-  
8 sonal care, community-based supports,  
9 communication services and devices, adapt-  
10 ive equipment, assistive technology, per-  
11 sonal assistance supports, financial man-  
12 agement and administrative services, ex-  
13 penses for oversight, monitoring, or advo-  
14 cacy, funeral and burial expenses.

15 “(vii) OTHER APPROVED EX-  
16 PENSES.—Any other expenses which are  
17 approved by the Secretary under regula-  
18 tions and consistent with the purposes of  
19 this section.

20 “(viii) ASSISTIVE TECHNOLOGY AND  
21 PERSONAL SUPPORT SERVICES.—Expenses  
22 for assistive technology and personal sup-  
23 port with respect to any item described in  
24 clauses (i) through (vii).

1           “(3) INDIVIDUAL WITH A DISABILITY.—An in-  
2           dividual is an individual with a disability if such in-  
3           dividual—

4                   “(A) would be eligible to receive supple-  
5                   mental security income benefits due to blind-  
6                   ness or disability under title XVI of the Social  
7                   Security Act, or disability benefits under Title  
8                   II of the Social Security Act, notwithstanding—

9                           “(i) the income and assets tests and  
10                           substantial gainful activity test required  
11                           for eligibility for such benefits, and

12                           “(ii) whether a determination has  
13                           been made that such individual is blind or  
14                           disabled, or

15                   “(B) is eligible to receive or is deemed to  
16                   be receiving supplemental security income bene-  
17                   fits due to blindness or disability under title  
18                   XVI of the Social Security Act, or disability  
19                   benefits under title II of the Social Security  
20                   Act.

21           “(4) RULES RELATING TO ESTATE AND GIFT  
22           TAX.—Rules similar to the rules of paragraphs (2),  
23           (4), and (5) of section 529(c) shall apply for pur-  
24           poses of this section.



1           “(5) ONLY 1 ACCOUNT PER QUALIFIED BENE-  
2           FICIARY.—No individual may have more than 1  
3           ABLE account for an individual with a disability.

4           “(c) TAX TREATMENT OF DISTRIBUTIONS.—

5           “(1) IN GENERAL.—Except as otherwise pro-  
6           vided in this subsection, any amount paid or distrib-  
7           uted out of an ABLE account shall be included in  
8           gross income by the payee or distributee, as the case  
9           may be, for the taxable year in which received in the  
10          manner as provided in section 72.

11          “(2) DISTRIBUTIONS FOR BENEFIT OF DES-  
12          IGNATED BENEFICIARY.—

13                 “(A) IN GENERAL.—No amount shall be  
14                 includible in gross income under paragraph (1)  
15                 if the qualified disability expenses of the des-  
16                 ignated beneficiary during the taxable year are  
17                 not less than the aggregate distributions during  
18                 the taxable year.

19                 “(B) DISTRIBUTIONS IN EXCESS OF EX-  
20                 PENSES.—If such aggregate distributions ex-  
21                 ceed such expenses during the taxable year, the  
22                 amount otherwise includible in gross income  
23                 under paragraph (1) shall be reduced by the  
24                 amount which bears the same ratio to the  
25                 amount which would be includible in gross in-

1           come under paragraph (1) (without regard to  
2           this subparagraph) as the qualified disability  
3           expenses bear to such aggregate distributions.

4           “(C)   DISALLOWANCE   OF   EXCLUDED  
5           AMOUNTS AS DEDUCTION, CREDIT, OR EXCLU-  
6           SION.—No deduction, credit, or exclusion shall  
7           be allowed to the taxpayer under any other sec-  
8           tion of this chapter for any qualified disability  
9           expenses to the extent taken into account in de-  
10          termining the amount of the exclusion under  
11          this paragraph.

12          “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
13          USED FOR BENEFIT OF DESIGNATED BENE-  
14          FICIARY.—

15                 “(A) IN GENERAL.—The tax imposed by  
16                 this chapter for any taxable year on any tax-  
17                 payer who receives a payment or distribution  
18                 from an ABLE account shall be increased by  
19                 10 percent of the amount thereof which is in-  
20                 cludible in gross income under paragraph (1).

21                 “(B)   EXCEPTION.—Subparagraph   (A)  
22                 shall not apply if the payment or distribution is  
23                 made to a beneficiary (or to the estate of the  
24                 designated beneficiary) on or after the death of  
25                 the designated beneficiary.

1           “(C) CONTRIBUTIONS RETURNED BEFORE  
2 CERTAIN DATE.—Subparagraph (A) shall not  
3 apply to the distribution of any contribution  
4 made during a taxable year if—

5                   “(i) such distribution is made before  
6 the 60th day after the date on which the  
7 contribution was made, and

8                   “(ii) such distribution is accompanied  
9 by the amount of net income attributable  
10 to such excess contribution.

11 Any net income described in clause (ii) shall be  
12 included in gross income for the taxable year in  
13 which such excess contribution was made.

14           “(4) ROLLOVERS.—Paragraph (1) shall not  
15 apply to any amount paid or distributed from an  
16 ABLE account to the extent that the amount re-  
17 ceived is paid, not later than the 60th day after the  
18 date of such payment or distribution, into—

19                   “(A) another ABLE account for the ben-  
20 efit of—

21                           “(i) the same beneficiary, or

22                           “(ii) an individual who—

23                                   “(I) is the spouse of such indi-  
24 vidual with a disability, or bears a re-  
25 lationship to such individual with a

1 disability which is described in section  
2 152(d)(2), and

3 “(II) is also an individual with a  
4 disability, or

5 “(B) any trust which is described in sub-  
6 paragraph (A) or (C) of section 1917(d)(4) of  
7 the Social Security Act and which is for the  
8 benefit of an individual described in clause (i)  
9 or (ii) of subparagraph (A).

10 The preceding sentence shall not apply to any pay-  
11 ment or distribution if it applied to any prior pay-  
12 ment or distribution during the 12-month period  
13 ending on the date of the payment or distribution.

14 “(5) CHANGE IN BENEFICIARY.—Any change in  
15 the beneficiary of an ABLE account shall not be  
16 treated as a distribution for purposes of paragraph  
17 (1) if the new beneficiary is an individual described  
18 in paragraph (4)(A)(ii) as of the date of the change.

19 “(d) TAX TREATMENT OF ACCOUNTS.—Rules similar  
20 to the rules of paragraphs (2) and (4) of section 408(e)  
21 shall apply to any ABLE account.

22 “(e) COMMUNITY PROPERTY LAWS.—This section  
23 shall be applied without regard to any community property  
24 laws.

1       “(f) CUSTODIAL ACCOUNTS.—For purposes of this  
2 section, a custodial account shall be treated as a trust if—

3               “(1) the assets of such account are held by a  
4 bank (as defined in section 408(n)) or another per-  
5 son who demonstrates, to the satisfaction of the Sec-  
6 retary, that the manner in which he will administer  
7 the account will be consistent with the requirements  
8 of this section, and

9               “(2) the custodial account would, except for the  
10 fact that it is not a trust, constitute an account de-  
11 scribed in subsection (b)(1).

12 For purposes of this title, in the case of a custodial ac-  
13 count treated as a trust by reason of the preceding sen-  
14 tence, the custodian of such account shall be treated as  
15 the trustee thereof.

16       “(g) REPORTS.—The trustee of an ABLE account  
17 shall make such reports regarding such account to the  
18 Secretary and to the beneficiary of the account with re-  
19 spect to contributions, distributions, and such other mat-  
20 ters as the Secretary may require. The reports required  
21 by this subsection shall be filed at such time and in such  
22 manner and furnished to such individuals at such time and  
23 in such manner as may be required.

24       “(h) INFLATION ADJUSTMENT.—

1           “(1) IN GENERAL.—In the case of any taxable  
2 year beginning after 2010, the \$500,000 dollar  
3 amount under subsection (b)(1)(A)(i)(II) shall be in-  
4 creased by an amount equal to—

5                   “(A) such dollar amount, multiplied by

6                   “(B) the cost of living adjustment deter-  
7 mined under section 1(f)(3) for the calendar  
8 year in which the taxable year begins, deter-  
9 mined by substituting ‘calendar year 2009’ for  
10 ‘calendar year 1992’ in subparagraph (B)  
11 thereof.

12           “(2) ROUNDING.—If any amount as adjusted  
13 under paragraph (1) is not a multiple of \$1,000,  
14 such amount shall be rounded to the next lowest  
15 multiple of \$1,000.

16           “(i) REGULATIONS.—The Secretary, in consultation  
17 with the Secretary of Health and Human Services, shall  
18 prescribe regulations to carry out the purposes of this sec-  
19 tion, including regulations—

20                   “(1) to ensure that individuals do not have  
21 more than 1 ABLE account, and

22                   “(2) to prevent fraud and abuse with respect to  
23 amounts claimed as qualified disability expenses.”.

24           (2) CONFORMING AMENDMENTS.—

25                   (A) TAX ON EXCESS CONTRIBUTIONS.—

1 (i) IN GENERAL.—Subsection (a) of  
2 section 4973 of the Internal Revenue Code  
3 of 1986 is amended by striking “or” at the  
4 end of paragraph (4), by inserting “or” at  
5 the end of paragraph (5), and by inserting  
6 after paragraph (5) the following new  
7 paragraph:

8 “(6) an ABLE account (within the meaning of  
9 section 530A),”.

10 (ii) EXCESS CONTRIBUTIONS.—Sec-  
11 tion 4973 of such Code is amended by add-  
12 ing at the end the following new sub-  
13 section:

14 “(h) EXCESS CONTRIBUTIONS TO ABLE AC-  
15 COUNTS.—For purposes of this section, in the case of an  
16 ABLE account (within the meaning of section 530A), the  
17 term ‘excess contributions’ means the sum of—

18 “(1) the amount by which the sum of the  
19 amount contributed for the taxable year to such ac-  
20 counts plus such amounts contributed for all pre-  
21 ceding taxable years exceeds the amount described in  
22 section 530A(b)(1)(A)(ii), and

23 “(2) the amount determined under this section  
24 for the preceding taxable year, reduced by the dis-

1       tributions from such account which were includible  
2       in gross income under section 530A(c)(1).

3 For purposes of this section, an amount which is distrib-  
4 uted out of an ABLE account in a distribution to which  
5 section 530A(c)(3)(C) applies shall be treated as an  
6 amount not contributed.”.

7               (B) TAX ON PROHIBITED TRANS-  
8               ACTIONS.—

9               (i) IN GENERAL.—Paragraph (1) of  
10              section 4975(e) of such Code (defining  
11              plan) is amended by redesignating sub-  
12              paragraph (G) as subparagraph (H), by  
13              striking “or” at the end of subparagraph  
14              (F), and by adding after subparagraph (F)  
15              the following:

16              “(G) an ABLE account described in sec-  
17              tion 530A, or”.

18              (ii) EXEMPTION.—Subsection (d) of  
19              section 4975 of such Code (relating to ex-  
20              emptions) is amended by striking “or” at  
21              the end of paragraph (22), by striking the  
22              period at the end of paragraph (23) and  
23              inserting “; or”, and by inserting after  
24              paragraph (23) the following:



1           “(24) in the case of an ABLE account, any  
2 transaction to provide housing or other services by  
3 a family member to or for the designated beneficiary  
4 of the trust to the extent that such transaction does  
5 not exceed the fair market value of the housing or  
6 service (as the case may be) provided.”.

7                         (iii) SPECIAL RULE.—Subsection (c)  
8 of section 4975 of such Code (relating to  
9 tax on prohibited transactions) is amended  
10 by adding at the end the following new  
11 paragraph:

12           “(7) SPECIAL RULE FOR ABLE ACCOUNTS.—An  
13 individual for whose benefit an ABLE account is es-  
14 tablished and any contributor to such account shall  
15 be exempt from the tax imposed by this section with  
16 respect to any transaction concerning such account  
17 (which would otherwise be taxable under this sec-  
18 tion) if section 530A(d) applies with respect to such  
19 transaction.”.

20                         (C) ROLLOVERS FROM CERTAIN OTHER  
21 TAX FAVORED ACCOUNTS.—

22                         (i) QUALIFIED TUITION PROGRAMS.—  
23 Paragraph (3) of section 529(e) of such  
24 Code is amended by adding at the end the  
25 following new subparagraph:

1           “(E) CONTRIBUTIONS TO ABLE AC-  
2           COUNT.—Subparagraph (A) shall not apply to  
3           that portion of any distribution which, within  
4           60 days of such distribution, is contributed to  
5           an ABLE account for the benefit of the des-  
6           ignated beneficiary.”.

7           (ii) EDUCATION SAVINGS AC-  
8           COUNTS.—Subsection (d) of section 530 of  
9           such Code is amended by adding at the  
10          end the following new paragraph:

11          “(10) CONTRIBUTIONS TO ABLE ACCOUNT.—  
12          Paragraph (1) shall not apply to any amount paid  
13          or distributed from a Coverdell education savings ac-  
14          count to the extent that the amount received is paid,  
15          not later than the 60th day after the date of such  
16          payment or distribution, into an ABLE account for  
17          the benefit of the same beneficiary.”.

18          (iii) HEALTH SAVINGS ACCOUNTS.—  
19          Subparagraph (A) of section 223(f)(5) is  
20          amended—

21                  (I) by inserting “(i)” before “into  
22                  a health savings account”, and

23                  (II) by inserting “or (ii) into an  
24                  ABLE account for the benefit of such

1 beneficiary” before “not later than the  
2 60th day”.

3 (iv) CERTAIN IRAS.—Subparagraph  
4 (A) of section 408(d)(3) is amended by  
5 striking “or” at the end of clause (i), by  
6 striking the period at the end of clause (ii)  
7 and inserting “; or”, and by inserting after  
8 clause (ii) the following new clause:

9 “(iii) the entire amount received (in-  
10 cluding money and other property) is paid  
11 into an ABLE account for the benefit of  
12 the child or grandchild of such individual  
13 not later than the 60th day after the day  
14 on which the payment or distribution is re-  
15 ceived.”.

16 (D) REPORTS.—Paragraph (2) of section  
17 6693(a) of such Code is amended by striking  
18 “and” at the end of subparagraph (D), by  
19 striking the period at the end of subparagraph  
20 (E) and inserting “and”, and by inserting after  
21 subparagraph (E) the following new subpara-  
22 graph:

23 “(F) section 530A(g) (relating to ABLE  
24 accounts).”.

1           (E) EXCLUSION FROM INCOME UNDER  
2           SSI.—Subsection (b) of section 1612 of the So-  
3           cial Security Act (42 U.S.C. 1382a) is amended  
4           by striking “or” at the end of paragraph (22),  
5           by striking the period at the end of paragraph  
6           (23) and inserting “; or”, and by inserting after  
7           paragraph (23) the following:

8           “(24) any contribution to an ABLE account.”.

9           (F) CLERICAL AMENDMENT.—The table of  
10          parts for subchapter F of chapter 1 of such  
11          Code is amended by inserting after the item re-  
12          lating to part VIII the following new item:

          “PART IX. SAVINGS FOR INDIVIDUALS WITH DISABILITIES”.

13         (b) ANNUAL REPORTS.—

14           (1) IN GENERAL.—The Secretary of the Treas-  
15           ury, in consultation with the Secretary of Health  
16           and Human Services, shall report annually to Con-  
17           gress on the usage of ABLE accounts under section  
18           530A of the Internal Revenue Code of 1986.

19           (2) CONTENTS OF REPORT.—Any report under  
20           paragraph (1) shall include—

21           (A) the number of people with an ABLE  
22           accounts,

23           (B) the total amount of contributions to  
24           such accounts,

1 (C) the total amount and nature of dis-  
2 tributions from such accounts,

3 (D) issues relating to the abuse of such ac-  
4 counts, if any, and

5 (E) the amounts repaid from such ac-  
6 counts to State Medicaid programs established  
7 under title XIX of the Social Security Act.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 the date of the enactment of this Act.

11 **SEC. 4. DEDUCTION FOR CONTRIBUTIONS TO ABLE AC-**  
12 **COUNTS.**

13 (a) DEDUCTION.—

14 (1) IN GENERAL.—Part VII of subchapter A of  
15 chapter 1 of the Internal Revenue Code of 1986 is  
16 amended by redesignating section 224 as section  
17 225 and inserting after section 223 the following  
18 new section:

19 **“SEC. 224. CONTRIBUTIONS TO ABLE ACCOUNTS.**

20 “(a) ALLOWANCE OF DEDUCTION.—In the case of a  
21 qualified individual, there shall be allowed as a deduction  
22 an amount equal so much of the qualified disability sav-  
23 ings contributions made during the taxable year as do not  
24 exceed \$2,000.

25 “(b) LIMITATIONS.—

1           “(1) LIMITATION BASED ON MODIFIED AD-  
2 JUSTED GROSS INCOME.—

3           “(A) IN GENERAL.—The amount which  
4 would (but for this paragraph) be taken into ac-  
5 count under subsection (a) for the taxable year  
6 shall be reduced (but not below zero) by the  
7 amount determined under subparagraph (B).

8           “(B) AMOUNT OF REDUCTION.—The  
9 amount determined under this subparagraph is  
10 the amount which bears the same ratio to the  
11 amount which would be so taken into account  
12 as—

13                   “(i) the excess of—

14                           “(I) the taxpayer’s modified ad-  
15 justed gross income for the taxable  
16 year, over

17                           “(II) the applicable amount,  
18 bears to

19                   “(ii) the phaseout amount.

20           “(C) APPLICABLE AMOUNT; PHASEOUT  
21 AMOUNT.—For purposes of subparagraph (B),  
22 the applicable amount and the phaseout amount  
23 shall be determined as follows:

	“The appli- cable amount is:	The phase- out amount is:
In the case of a joint return .....	\$60,000	\$10,000

	“The appli- cable amount is:	The phase- out amount is:
In the case of a head of household .....	\$45,000	\$7,500
In any other case .....	\$30,000	\$5,000.

1                   “(D) MODIFIED ADJUSTED GROSS IN-  
2                   COME.—For purposes of this paragraph, the  
3                   term ‘modified adjusted gross income’ means  
4                   the adjusted gross income of the taxpayer for  
5                   the taxable year increased by any amount ex-  
6                   cluded from gross income under section 911,  
7                   931, or 933.

8                   “(E) INFLATION ADJUSTMENT.—In the  
9                   case of any taxable year beginning in a calendar  
10                  year after 2010, each of the applicable amounts  
11                  in the second column of the table in subpara-  
12                  graph (C) shall be increased by an amount  
13                  equal to—

14                         “(i) such dollar amount, multiplied by  
15                         “(ii) the cost-of-living adjustment de-  
16                         termined under section 1(f)(3) for the cal-  
17                         endar year in which the taxable year be-  
18                         gins, determined by substituting ‘calendar  
19                         year 2009’ for ‘calendar year 1992’ in sub-  
20                         paragraph (B) thereof.

1 Any increase determined under the preceding  
2 sentence shall be rounded to the nearest mul-  
3 tiple of \$500.

4 “(2) EARNED INCOME LIMITATION.—The  
5 amount of any deduction allowed under subsection  
6 (a) with respect to any taxpayer shall not exceed the  
7 earned income (as defined by section 32(e)(2)) of  
8 such taxpayer for such taxable year.

9 “(c) QUALIFIED INDIVIDUAL.—For purposes of this  
10 section, the term ‘qualified individual’ means an individual  
11 with a disability (as defined in section 530A(b)) who is  
12 the designated beneficiary of an ABLE accounts (as de-  
13 fined by section 530A(a)).

14 “(d) QUALIFIED DISABILITY SAVINGS CONTRIBU-  
15 TIONS.—The term ‘qualified disability savings contribu-  
16 tions’ means, with respect to any taxable year, the aggre-  
17 gate contributions made by the taxpayer to the ABLE ac-  
18 count for an individual with a disability (as so defined)  
19 with respect to which such taxpayer is the qualified indi-  
20 vidual.

21 “(e) TREATMENT OF CONTRIBUTIONS BY DEPEND-  
22 ENT.—If a deduction under section 151 with respect to  
23 an individual is allowed to another taxpayer for a taxable  
24 year beginning in the calendar year in which such individ-  
25 ual’s taxable year begins—



1           “(1) no deduction shall be allowed under sub-  
2           section (a) to such individual for such individual’s  
3           taxable year, and

4           “(2) any qualified disability savings contribu-  
5           tions made by such individual during such taxable  
6           year shall be treated for purposes of this section as  
7           made by such other taxpayer.”.

8           (2) CONFORMING AMENDMENTS.—The table of  
9           sections for part VII of subchapter A of chapter 1  
10          of the Internal Revenue Code of 1986 is amended  
11          redesignating the item relating to section 224 as re-  
12          lating to section 225 and by inserting after the item  
13          relating to section 223 the following new item:

“Sec. 224. Contributions to ABLE accounts.”.

14          (b) STUDY.—

15               (1) IN GENERAL.—The Secretary of the Treas-  
16               ury (or the Secretary’s delegate), in consultation  
17               with the Secretary of Health and Human Services,  
18               shall conduct a study on the use of ABLE accounts  
19               (as defined by section 530A(a) of the Internal Rev-  
20               enue Code) and the effect of the deduction allowed  
21               under section 224 of such Code for contributions to  
22               such accounts. Such study shall consider the effect  
23               that a tax credit or a refundable matching tax credit  
24               would have on the use of and contributions to such  
25               accounts.

1           (2) REPORT.—Not later than 5 years after the  
2           date of the enactment of this Act, the Secretary of  
3           the Treasury shall report to Congress on the study  
4           conducted under paragraph (1).

5           (c) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply to taxable years beginning after  
7           the date of the enactment of this Act.

8   **SEC. 5. TREATMENT OF ABLE ACCOUNTS UNDER CERTAIN**  
9                                   **FEDERAL PROGRAMS.**

10          (a) TREATMENT AS A MEDICAID EXCEPTED  
11 TRUST.—Paragraph (4) of section 1917(d) of the Social  
12 Security Act (42 U.S.C. 1396p(d)(4)) is amended by add-  
13 ing at the end the following new subparagraph:

14                   “(D) A trust which is an ABLE account de-  
15                   scribed in section 530A(b)(1) of the Internal Rev-  
16                   enue Code of 1986.”.

17          (b) ACCOUNT FUNDS DISREGARDED FOR PURPOSES  
18 OF CERTAIN OTHER MEANS-TESTED FEDERAL PRO-  
19 GRAMS.—Notwithstanding any other provision of Federal  
20 law that requires consideration of 1 or more financial cir-  
21 cumstances of an individual, for the purpose of deter-  
22 mining eligibility to receive, or the amount of, any assist-  
23 ance or benefit authorized by such provision to be provided  
24 to or for the benefit of such individual, any amount (in-  
25 cluding earnings thereon) in any ABLE account of such

1 individual, and any distribution for qualified disability ex-  
2 penses (as defined in section 530A(b)(2)) shall be dis-  
3 regarded for such purpose with respect to any period dur-  
4 ing which such individual maintains, makes contributions  
5 to, or receives distributions from such ABLE account.

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