

§ 1.529A-1 Exempt status of qualified ABLÉ program and definitions.

(a) *In general.* A qualified ABLÉ program described in section 529A is exempt from Federal income tax, except for the tax imposed under section 511 on any unrelated business taxable income of that program. See § 1.511-2(e).

(b) *Definitions.* For purposes of section 529A, this section and §§ 1.529A-2 through 1.529A-8—

(1) *ABLE account* means an account established under a qualified ABLÉ program and owned by the designated beneficiary of that account.

(2) *Contribution* means any payment directly allocated to an ABLÉ account for the benefit of a designated beneficiary, including amounts transferred to an ABLÉ account between December 22, 2017, and January 1, 2026, from a qualified tuition program described in section 529.

(3) *Designated beneficiary* means the individual for whom the account was established at a time when he or she was an eligible individual or who has succeeded the former designated beneficiary in that capacity (successor designated beneficiary). The designated beneficiary is the owner of the ABLÉ account. If the designated beneficiary is not able to exercise signature authority over his or her ABLÉ account or chooses to have an ABLÉ account established but not to exercise signature authority, references to the designated beneficiary with respect to his or her actions include actions by the person with signature authority over the account. See § 1.529A-2(c)(1) and (2).

(4) *Disability certification* means a certification to establish a certain level of an individual's physical or mental impairment that meets the requirements described in § 1.529A-2(e).

(5) *Distribution* means any payment from an ABLÉ account. However, a program-to-program transfer, a Medicaid reimbursement under § 1.529A-2(o), or a payment of administrative or investment fees charged by a qualified ABLÉ program is not a distribution.

(6) *Earnings* attributable to an ABLÉ account are the excess of the total account balance on a particular date over the investment in the account as of that date.

(7) *Earnings ratio* as applied to a particular distribution means the amount of earnings attributable to the ABLÉ account as of the date of the distribution, divided by the total account balance on that same date.

(8) *Eligible individual* for a taxable year means an individual who either:

(i) Is receiving benefits under title II or XVI of the Social Security Act based on blindness or disability or whose entitlement to such benefits under title XVI has been suspended solely due to excess income or resources, provided that such blindness or disability occurred before the date on which the individual attained age 26 (and, for this purpose, an individual is deemed to attain age 26 on his or her 26th birthday); or

(ii) Is the subject of a disability certification filed with the Secretary of the Treasury or his delegate (Secretary) for that taxable year.

(9) *Excess contribution* means the amount by which the amount contributed during the taxable year of the designated beneficiary to an ABLÉ account exceeds the limit in effect under section 2503(b) for the calendar year in which the taxable year of the designated beneficiary begins.

(10) *Excess aggregate contribution* means—

(i) The amount contributed during the taxable year of the designated beneficiary that causes the total of amounts contributed since the establishment of the ABLÉ account (or of an ABLÉ account for the same designated beneficiary that was rolled into the current ABLÉ account) to exceed the limit in effect under section 529(b)(6); or

(ii) In the context of the safe harbor in § 1.529A-2(g)(3), the amount contributed that causes the account balance to exceed the limit in effect under section 529(b)(6).

(11) *Investment in the account* means—

(i) The sum of all contributions made to the ABLÉ account, reduced by the aggregate amount of contributions included in distributions, if any, made from the account; or

(ii) In the case of a rollover contribution into an ABLÉ account, the amount of the rollover contribution that constituted the amount described

in paragraph (b)(11)(i) of this section with respect to the ABLE account from which the rollover contribution was made.

(12) *Member of the family* means a sibling, whether by blood or by adoption, and includes a brother, sister, stepbrother, stepsister, half-brother, and half-sister.

(13) *Program-to-program transfer* means—

(i) The direct transfer of the entire balance of an ABLE account into an ABLE account of the same designated beneficiary after which the transferor ABLE account is closed upon completion of the transfer; or

(ii) The direct transfer of part or all of the balance to an ABLE account of another eligible individual who is a member of the family of the former designated beneficiary.

(14) *Qualified ABLE program* means a program established and maintained by a State, or agency or instrumentality of a State, under which an ABLE account may be established by and for the benefit of the account's designated beneficiary who is an eligible individual, and that meets the requirements described in §1.529A-2.

(15) *Qualified disability expenses* means any expenses incurred at a time when the designated beneficiary is an eligible individual that relate to the blindness or disability of the designated beneficiary of an ABLE account, including expenses that are for the benefit of the designated beneficiary in maintaining or improving his or her health, independence, or quality of life. See §1.529A-2(h). However, any expenses incurred at a time when a designated beneficiary is neither disabled nor blind within the meaning of §1.529A-1(b)(8)(i) or §1.529A-2(e)(1)(i), even if the designated beneficiary is an eligible individual for that entire taxable year, do not relate to blindness or disability and therefore are not qualified disability expenses.

(16) *Rollover* means a contribution to an ABLE account of a designated beneficiary (or of an eligible individual who is a member of the family of the designated beneficiary) of all or a portion of an amount distributed from the designated beneficiary's ABLE account, provided the contribution is made

within 60 days of the date of the withdrawal and, in the case of a rollover to the designated beneficiary's ABLE account, no rollover has been made to an ABLE account of the designated beneficiary within the 12 month period immediately preceding the rollover to the ABLE account.

(c) *Applicability date.* This section applies to calendar years beginning on or after January 1, 2021. See §1.529A-8 for the provision of transition relief.

§ 1.529A-2 Qualified ABLE program.

(a) *In general.* A qualified ABLE program is a program established and maintained by a State, or an agency or instrumentality of a State, that satisfies all of the requirements of this section and under which—

(1) An ABLE account may be established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account;

(2) A designated beneficiary is limited to only one ABLE account at a time except as otherwise provided in paragraph (c)(3) of this section;

(3) Any person may make contributions to such an ABLE account, subject to the limitations described in paragraph (g) of this section; and

(4) Distributions (other than returns of contributions as described in paragraph (g)(4) of this section) may be made only to or for the benefit of the designated beneficiary of the ABLE account.

(b) *Established and maintained by a State or agency or instrumentality of a State—*(1) *Established.* A program is established by a State or its agency or instrumentality if the program is initiated by State statute or regulation or by an act of a State official or agency with the authority to act on behalf of the State.

(2) *Maintained—*(i) *In general.* A program is maintained by a State or an agency or instrumentality of a State if—

(A) The State or its agency or instrumentality sets all of the terms and conditions of the program, including but not limited to who may contribute to the program, who may be a designated beneficiary of the program, and what benefits the program may provide; and