

ABLE Updates & Basics

Presented by:

Stephen W. Dale, JD, LLM

The Dale Law Firm, PC
Golden State Pooled Trust
www.dalelawfirm.com
steve@dalelawfirm.com

Peter J. Wall

Director of Fiduciary Services
True Link Financial
www.truelinkfinancial.com
peter.wall@truelinkfinancial.com



1

Presenter's Bio

Stephen W. Dale, Esq., LLM:

Attorney and disability rights advocate

- Serves on boards and committees of disability rights organizations
- Spends much of his time attending disability rights activities, including legislative hearings and serving on boards and committees of disability rights organizations
- Teaches courses to the public, financial professionals, and other attorneys on special needs trusts and trust administration with a special emphasis on achieving independence while maintaining essential government benefits
- Frequent speaker on a variety of disability-related topics across the country
- Longstanding member of the Special Needs Alliance
- Executive Director of the Golden State Pooled Trust

Degrees and awards

- JD from Armstrong Law School
- LLM in Taxation from Golden Gate University
- 2007 NAELA Powley Award recipient
- 2010 Theresa Foundation Award recipient

2

2

Presenter's Bio

Peter J. Wall:

20 years of professional trust administration
Focus in Elder Law and SNT planning

Prior to joining True Link Financial

- Developed and helped lead the BOK Financial Disability and Elder Trust Solutions division
- President of the Centennial Estate Planning Council
- President of the Denver Trust Officers Association
- President of VSA Access Gallery
- Member of the Board of Directors for Easter Seals

Special needs trusts, estate planning, taxation, and trust administration faculty member & presentations include:

- CBA 2012, 2014, 2015 & 2017 Elder Law Retreat
- 2013 National Down Syndrome Congress
- 2015 46th Annual Autism Society National Conference
- 2016 CBA Estate Planning Retreat
- 2016, 2018, 2019 & 2020 Stetson Conference on Special Needs Planning and Special Needs Trusts
- 2017 National Conference for the National Guardianship Association
- 2019 Special Needs Alliance Conference
- 2019 & 2020 National NAELA Conference
- 2020 CA NAELA
- 2020 PFAC Annual Conference

3

3

About ABLE

“

Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act

“(1) encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life,” and “(2) provide secure funding for disability-related expenses of beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, title XVI (Supplemental Security Income) and title XIX (Medicaid) of the Social Security Act, the beneficiary’s employment, and other sources.”

Achieving a Better Life Experience Act (“ABLE Act”), Pub. L. No. 113-295 § 101

”

June 2020 - Social Security Administration's Monthly Statistical Snapshot:

- More than 5.3 million Americans receive SSI
- More than 2.6 million Americans receive SS & SSI

Adds IRC Section 529A

- Full copy of 26 U.S. Code § 529A found in Appendix A

Internal Revenue Bulletin 2015-18 provides state authority to run ABLE programs.

Consolidated Appropriations Act of 2016 (Pub. L. No. HR 2029 § 303)

- Allows people with disabilities to open an ABLE account in any state, regardless of residence

4

4

About ABLÉ

Achieving a Better
Life Experience
(ABLE) Act

Enacted
December 19, 2014

Amends Section
529 of the Internal
Revenue Code

Tax-advantaged savings accounts for individuals with disabilities

- Income earned is non-taxable
- Contributions (up to \$15,000/year total - 2021) may be made by any person
- Do not count as resource for public benefits determination*
- Limited eligibility: Onset of disability before age 26
- Medicaid Estate Recovery? YES (most states)
- To be used for “Qualified Disability Expenses” (“QDEs”) only

Note: Payment for housing expenses (shelter) and food allowable.

5

5

ABLE Eligibility

Eligible individuals must meet **two requirements**:

Age:

Must be disabled before age 26



Disability Determination:

Must have been determined to meet the disability requirements for Supplemental Security Income (SSI) or Social Security disability benefits

OR

Must submit a **doctor's certification (M.D. or D.O.)** that meets criteria (essentially equal to Social Security “listings” level of disability, including a physician's diagnosis, see here: <https://www.ssa.gov/disability/professionals/bluebook/>)

Note: If the ABLE account beneficiary qualifies because of doctor's certification, ABLE eligibility cannot be used to secure Supplemental Security Income (SSI).

Ongoing advocacy to extend age limitation to 46 - NAELA, ABLE National Resource Center (www.ablenrc.org)

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: ABLE Updates and Basics

Also available as part of the eCourse

[2021 Special Needs Trusts eConference](#)

First appeared as part of the conference materials for the
17th Annual Changes and Trends Affecting Special Needs Trusts session
"ABLE Updates and Basics"