

# Ways You Should and Shouldn't Use ABLE

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The ABLE Act is a new tool that opens up new possibilities and challenges in providing quality of life for persons with disabilities. Examine the practical do's and don'ts, from the viewpoint of a trustee of a special needs trust, that will assist planners in meeting their clients objectives.

## Using an ABLE Account with a Special Needs Trust

- We are getting strong indications that SSA will take the position that a special needs trust can make distributions to an ABLE Account for an SSI recipient because it is basically a transfer of an exempt resource to an exempt resource.
- This has the possibility of tying the two tools together to get the best of all worlds.

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## Self-Settled Special Needs Trusts

- Self-settled special needs trusts might be more problematic because
  - they are subject to a lien upon the death of the beneficiary, and
  - the trustee of a self-settled trust must make sure that all distributions are for the sole benefit of the beneficiary.

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## Self-Settled Special Needs Trusts

- Many advocates expect that further guidance will come from SSA in the near future (maybe at this conference), but in the meantime for administrators looking at using an ABLE Account tied to a self-settled trust, here are a couple of factors that might be considered.

## Self-Settled Special Needs Trusts

- First, even though the oversight of distributions from the ABLE Account itself is not subject to SSA oversight, the trustee should make sure that they can account for the payments made and insure that the ABLE Account meets the sole benefit rule.
- A self-settled trust making a distribution to an ABLE Account and in turn paying housing expenses when done correctly could increase the SSI a beneficiary receives by over \$3,000 a year.

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