KPMG

TaxNewsFlash

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Proposed regulations: Contribution limits applicable to ABLE accounts

The U.S. Treasury Department and IRS today released for publication in the Federal Register a notice of proposed rulemaking that allows a state (or its agency or instrumentality) to establish and maintain a tax-advantaged savings program under which contributions may be made to an "achieving a better life experience" (ABLE) account for the purpose of paying for the qualified disability expenses of the designated beneficiary of the account.

Read the **proposed regulations** [PDF 327 KB] as published in the Federal Register on October 10, 2019.

The contribution limits for ABLE accounts and other provisions of section 529A were modified by the U.S. tax law enacted in December 2017 as Pub. L. No. 115-97—the law that is often referred to as the "Tax Cuts and Jobs Act" (TCJA).

Background

To address the 2017 Act modifications to section 529A, Treasury and the IRS published Notice 2018-62 in August 2018, which announced the intent of Treasury and the IRS to issue proposed regulations to implement these changes, and describes the anticipated rules to implement the statutory changes. No comments were received in response to the notice. Today's proposed regulations incorporate, without substantive change, the anticipated rules described in Notice 2018-62. Read ***TaxNewsFlash***

Explanation of provisions

The 2017 Act amended section 529A(b)(2)(B) to permit an employed or self-employed designated beneficiary described in section 529A(b)(7) to contribute to his or her ABLE account the lesser of the designated beneficiary's compensation for the tax year or an amount equal to the poverty line for a one-person household for the calendar year preceding the calendar year in which the designated beneficiary's tax year begins.

Today's proposed regulations confirm that the employed designated beneficiary, or the person acting on his or her behalf, is solely responsible for providing that the requirements in section 529A(b)(2)(B)(ii) are met and for maintaining adequate records for that purpose.

In addition, to minimize burdens for the designated beneficiary and the qualified ABLE program, today's proposed regulations provide that ABLE programs may allow a designated beneficiary or the person acting on his or her behalf to certify, under penalties of perjury, that he or she is a designated beneficiary described in section 529A(b)(7) and that his or her contributions of compensation do not exceed the limit set forth in section 529A(b)(2)(B)(ii).

Proposed effective / applicability date

Today's regulations are proposed to apply to tax years beginning after the date of publication of the Treasury decision adopting the rules as final regulations in the Federal Register. Until the issuance of final regulations, taxpayers and qualified ABLE programs may rely on today's proposed regulations.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.