

111TH CONGRESS
1ST SESSION

S. 493

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.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2009

Mr. CASEY (for himself, Mr. HATCH, Mr. DODD, Mr. BURR, Mr. KENNEDY, and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Finance

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”.

7 **SEC. 2. PURPOSES.**

8 The purposes of this Act are as follows:

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

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

13 **SEC. 3. ABLE ACCOUNTS.**

14 (a) ESTABLISHMENT.—

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

19 **“PART IX—SAVINGS FOR INDIVIDUALS WITH**
20 **DISABILITIES**

“Sec. 530A. ABLE Accounts.

21 **“SEC. 530A. ABLE ACCOUNTS.**

22 “(a) GENERAL RULE.—An ABLE account shall be
23 exempt from taxation under this subtitle. Notwithstanding
24 the preceding sentence, such account shall be subject to

1 the taxes imposed by section 511 (relating to imposition
2 of tax on unrelated business income of charitable organiza-
3 tions).

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

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

15 “(A) No contribution will be accepted—

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

21 “(ii) if such contribution would result
22 in aggregate contributions for the taxable
23 year and all preceding taxable years ex-
24 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 FIICIARY.—

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 person
5 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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