

CHAPTER 185

AN ACT concerning trust accounts for persons with certain disabilities, amending P.L.1997, c.237, and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

C.54A:6-25 Certain earnings, distributions excluded from gross income.

13. a. Gross income shall not include earnings on a Coverdell education savings account, a qualified State tuition program account, or a qualified ABLE account until the earnings are distributed from the account, at which time they shall be includible in the gross income of the distributee except as provided in this section.

b. Gross income shall not include qualified distributions as defined in paragraph (3) of subsection c. of this section.

c. For purposes of this section:

(1) "Coverdell education savings account" means a Coverdell education savings account as defined pursuant to paragraph (1) of subsection (b) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.530.

(2) "Qualified State tuition program account" means an account established pursuant to the "New Jersey Better Educational Savings Trust (NJBEST) Program," (N.J.S.18A:71B-35 et seq.) or an account established pursuant to any qualified State tuition program, as defined pursuant to subsection (b) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or a tuition credit or certificate purchased pursuant to any such program.

(3) "Qualified distribution" means any of the following:

(a) a distribution from a qualified State tuition program account that is used for qualified higher education expenses as defined pursuant to paragraph (3) of subsection (e) of section 529 or a distribution from a qualified ABLE account that is used for qualified disability expenses as defined pursuant to paragraph (5) of subsection (e) of section 529A of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529 or 529A;

(b) a rollover from one account to another account as described in clause (i) of subparagraph (C) of paragraph (3) of subsection (c) of section 529, clause (i) of subparagraph (C) of paragraph (1) of subsection (c) of section 529A, or paragraph (5) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529, 529A, or 530; or

(c) a change in designated beneficiaries of an account as described in clause (ii) of subparagraph (C) of paragraph (3) of subsection (c) of section 529, clause (ii) of subparagraph (C) of paragraph (1) of subsection (c) of section 529A, or paragraph (6) of subsection (d) of section 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529, 529A, or 530; and

(d) any other transfer involving a qualified ABLE account which is a qualified distribution for the purposes of section 529A of the federal Internal Revenue Code, 26 U.S.C. s.529A.

(4) "Qualified ABLE account" means an account established pursuant to P.L.2015, c.185 (C.52:18A-250 et al.) or an account established pursuant to any qualified State ABLE Program established pursuant to section 529A of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529A.

d. The portion of a distribution from a Coverdell education savings account, a qualified ABLE account, or a qualified State tuition program account that is attributable to earnings shall be determined in accordance with the principles of section 72 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.72, as applied for purposes of sections 529, 529A, and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C. ss.529, 529A, and 530.

C.52:18A-250 “New Jersey Achieving a Better Life Experience (ABLE) Program.”

2. The Department of the Treasury, in cooperation with the Department of Human Services, shall establish, in accordance with section 529A of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529A, the “New Jersey Achieving a Better Life Experience (ABLE) Program.” The departments may contract with a third party provider to administer and operate the program.

C.52:18A-251 Availability of ABLE funds.

3. The Department of the Treasury shall ensure that participants can readily deposit and withdraw funds from ABLE accounts in accordance with 26 U.S.C. s.529A.

C.52:18A-252 DHS responsible for program services.

4. The Department of Human Services shall be responsible for program services. The department may contract with a third party provider to administer any or all program services, which shall include, but not be limited to:

- a. Promoting the program to the communities most likely to benefit from access to ABLE accounts;
- b. Evaluating, qualifying, and processing applications to the program in accordance with 26 U.S.C. s.529A; and
- c. Processing claims from an ABLE account holder to the Department of Human Services or other institution assigned to administer the ABLE account in accordance with 26 U.S.C. s.529A.

C.52:18A-253 Program treated as State ABLE Program.

5. The Department of the Treasury and the Department of Human Services shall take all actions required so that the program is treated as a qualified State ABLE Program under 26 U.S.C. s.529A.

C.52:18A-254 Annual determination of dollar amount of ABLE account.

6. Annually, the Department of the Treasury shall determine a dollar amount of an ABLE account, which shall not be less than \$25,000, which shall not be considered in evaluating the financial needs of a designated beneficiary or be deemed a financial resource or a form of financial aid or assistance to a designated beneficiary, for purposes of determining the eligibility of the beneficiary for any scholarship, grant, or monetary assistance awarded by the State for the purposes of financing the education expenses of the beneficiary, including higher education expenses; nor shall the amount of any account as determined by the Department of the Treasury provided for a designated beneficiary under P.L.2015, c.185 (C.52:18A-250 et al.) reduce the amount of any scholarship grant or monetary assistance which the beneficiary is entitled to be awarded by the State for the purposes of financing education expenses.

C.52:18A-255 ABLE account disregarded for eligibility to receive certain benefits.

7. Notwithstanding any other provision of State law or regulation that requires consideration of one or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount, including earnings thereon, in any ABLE account of such individual, and any distribution for qualified disability expenses shall be disregarded for such purpose with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such ABLE account.

C.52:18A-256 Rules, regulations.

8. The Department of Human Services and the Department of the Treasury shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations governing the administration and operation of the program as may be necessary to effectuate the provisions of P.L.2015, c.185 (C.52:18A-250 et al.) in accordance with 26 U.S.C. s.529A.

9. This act shall take effect on the first day of the 10th month next following the date of enactment.

Approved January 11, 2016.