

Comparison of ABL Account, First Party Special Needs Trust, and Third-Party Supplemental Needs Trust

CHARACTERISTIC	ABLE ACCOUNT	FIRST PARTY SPECIAL NEEDS TRUST – Person’s Money	THIRD PARTY SUPPLEMENTAL NEEDS TRUST
What is excluded as a resource	Money in account is excluded as a resource up to \$100,000 for purposes of SSI eligibility	All money and assets are excluded as a resource for SSI and Medicaid eligibility	All money and assets are excluded as a resource for SSI and Medicaid eligibility
Age of person with a disability to be eligible to open	Person’s disability must have occurred before the age of 26	Any age up to age 65; 65 and older may be possible to open an account in a pooled special needs trust	No age limit
How much can be contributed annually	Annual contributions up to gift tax exemption - \$18,000 in 2024; may be able to contribute an additional \$14,580 if working and no employer sponsored retirement account	No limit	No limit
Tax treatment of any investment gain	Return or gain on funds because of investment grow tax free as long as distributions are made for qualified disability expenses	Return or gain on funds in the trust would possibly have a tax liability	Return or gain on funds in the trust would possibly have a tax liability
What can funds be used for	Funds are to be used for qualified disability expenses	Use of funds is not limited to qualified disability expenses	Use of funds is not limited to qualified disability expenses
Who can contribute funds or other assets	Funds can be contributed by the person with a disability and anyone else	Only money or other resources in belonging to the person with a disability	Only money or other resources of anyone else other than the person with a disability
Who can access funds or resources	Person or authorized legal representative can access directly	Person or their representative has to request from the Trustee	Person or their representative has to request from the Trustee

What can be contributed	Only cash can be contributed	Cash or tangible personal property e.g., a house, or investment products	Cash, tangible personal property (e.g., a house), investment products, beneficiary of life insurance policy, portion of a family member's estate
Who is responsible for documentation for IRS accounting	Person or their legal representative responsible for maintaining receipts to verify distributions were for qualified disability expenses	Trustee responsible for documentation	Trustee responsible for documentation
Medicaid Estate Recovery upon the beneficiary's death	SB 160 passed in 2023 General Assembly and signed by Governor Beshear eliminated Medicaid estate recovery for STABLE Kentucky (KY's ABLE Program) accounts	Medicaid estate recovery can pre-date establishment of Trust; funds may be able to remain in a pooled special needs trust	No Medicaid estate recovery; Whoever established the Trust determines where any remainder goes

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