

ABLE Accounts are in the Tax Code...

A comparative framework for ABLE accounts, 529 plans, investment flexibility, and coordinated SNT tax planning

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Introduction

ABLE accounts are valuable disability-planning tools. They can provide tax-free growth when distributions pay qualified disability expenses (QDEs), a practical beneficiary-directed spending channel, and favorable treatment under SSI and other means-tested programs. They can be especially useful for a working person with a disability, who may have access to the additional ABLE-to-Work contribution capacity if the statutory conditions are met. A beneficiary-owned account can also provide a supported setting in which to budget, save, make spending decisions, and use financial services.

At the same time, ABLE is a limited statutory account. Contributions are capped, investments are selected from a sponsoring program's menu, excess balances can affect SSI, and a state Medicaid claim may arise at death. These features make ABLE an important component of planning, but not a substitute for a well-designed and actively administered SNT.

This paper compares the actual tax results of ABLE accounts, 529 plans, and SNTs rather than assuming that one vehicle is always superior. ABLE accounts and 529 plans generally allow earnings to accumulate without current federal income tax, and distributions can be tax-free when each account's distinct qualified-expense requirements are met. An SNT does not have the same blanket account-level exclusion, but that does not mean its income is necessarily taxed at the highest trust rates. Depending on the trust's classification, deductions, and distributions, income may be taxed to the grantor, retained and taxed by the trust, or carried out as distributable net income (DNI) to the beneficiary. The comparison is what tax actually results—not merely whether a vehicle is described as “tax-free” or “taxable.” [IRC § 529\(c\)\(3\)](#); [IRC § 529A\(c\)\(1\)](#); [IRC § 661](#); [IRC § 662](#).

For each proposed transaction, the planner should ask three questions:

1. **Federal income tax—what is the actual result?** For an ABLE account or 529 plan, will earnings remain untaxed and will distributions satisfy that account's qualified-expense rules? For an SNT, who reports taxable income—the grantor, trust, or beneficiary—and what tax remains after applicable deductions and any DNI carryout?

2. **Public benefits—what is counted, and when?** For ABLE, are the contribution, account balance, and distribution excluded under the applicable program’s rules? An ABLE withdrawal is not SSI income, but funds retained for housing or a non-QDE can become an SSI resource, while retained nonhousing-QDE funds may qualify for a conditional exclusion. For a 529 plan, who owns the account? For an SNT, what rights does the beneficiary have, and how is the particular payment treated? [SSA POMS SI 01130.740](#); [SSA POMS SI 01140.150](#).
3. **Control and administration—who can act, and what remains available?** Who owns and directs the asset, what expenditures can it support, how flexible are its investments and distributions, and what happens to funds remaining at the beneficiary’s death?

The organizing question is which arrangement produces the best combined tax, benefits, and administrative result for a particular dollar.

This paper addresses federal income-tax and SSI principles as of September 2026. Medicaid rules beyond the federal ABLE death-claim provision, state taxes, plan terms, and governing trust law must be reviewed for each case. The examples simplify facts and do not calculate a client’s actual tax liability.

1. The Roles of ABLE, 529, and Special Needs Trusts

A. The ABLE account

A qualified ABLE program under [IRC § 529A](#) is a beneficiary-owned, tax-favored account. Contributions generally use after-tax dollars; earnings accumulate without current federal income tax; and distributions are excluded from gross income to the extent of QDEs for the taxable year.

The QDE definition is deliberately broad. A QDE is an expense related to the beneficiary’s blindness or disability and made for the beneficiary’s benefit in maintaining or improving health, independence, or quality of life. It need not be medically necessary and need not be an expense that only a person with a disability would incur. The statute and regulations identify education, housing, transportation, employment training and support, assistive technology, personal support services, health, financial management, legal fees, oversight and monitoring, funeral and burial expenses, and basic living expenses as included categories—not an exclusive list. [IRC § 529A\(e\)\(5\)](#); [Treas. Reg. § 1.529A-1\(b\)\(15\)](#).

As a practical matter, the breadth of this definition often makes it easier to identify expenses that are likely QDEs than expenses that clearly are not. The question is not whether the purchase is unusual or whether it appears on a narrow medical list; it is whether the expense has the required relationship to the beneficiary’s disability and serves the beneficiary’s health, independence, or quality of life. A straightforward non-QDE example is a personal gift from the beneficiary to a friend: the transfer ordinarily benefits the friend, rather than paying an expense for the beneficiary’s benefit. That example is used later in the tax illustration.

ABLE works well for planned expenses and beneficiary-directed spending. Eligibility depends on disability onset before age 46 beginning in 2026, whether established through qualifying benefits or a disability certification. The beneficiary owns the account even if another person has signature authority. A beneficiary may have only one ABLE account at a time. [IRC § 529A\(b\), \(e\)](#); [SSA POMS SI 01130.740\(B\)](#).

For 2026, the ordinary annual contribution limit is **\$20,000**, with a possible additional contribution by an eligible employed beneficiary under ABLE to Work. A 529-to-ABLE rollover counts toward the annual ABLE limit. [IRS Rev. Proc. 2025-32, § 3.34](#); [IRC § 529A\(b\)\(2\)\(B\)](#).

A new, distinct rollover pathway: Trump accounts. IRC § 530A permits a qualified rollover of the **entire balance** of a Trump account directly, trustee to trustee, to an ABLE account for the **same beneficiary**, but only during the calendar year in which that beneficiary turns **17**. A qualifying rollover is not included in the beneficiary's gross income. Because it is excepted from both the ordinary ABLE annual contribution limit and the contributions counted under the state aggregate-contribution safeguard, the entire balance need not fit within that year's ordinary ABLE contribution allowance. This is not the rule for a 529-plan-to-ABLE rollover, which generally counts toward the annual limit. The resulting ABLE balance is nevertheless subject to the separate SSI rule: amounts above \$100,000 may affect SSI cash benefits if the excess causes resource ineligibility. The Trump-account provision is a narrow future planning opportunity, not a general option to move money to ABLE at any age: the beneficiary must qualify for an ABLE account and the transfer must satisfy the age, same-beneficiary, entire-balance, and direct-transfer conditions. Benefits treatment while funds remain in the Trump account should be considered separately from the rules that apply after a completed ABLE rollover. [IRC § 530A\(d\)\(4\)](#); [IRC § 529A\(b\)\(2\)\(B\), \(b\)\(6\)](#); [IRS Notice 2025-68](#).

For SSI, up to \$100,000 in an ABLE account is excluded from resources. An excess can cause suspension of SSI cash payments while Medicaid continues if the excess ABLE balance is the cause of ineligibility and the recipient otherwise remains eligible. Other countable resources can change that result. [SSA POMS SI 01130.740\(C\)\(3\), \(D\)\(1\)](#).

ABLE under Medicaid and HUD rules

CMS provides detailed Medicaid guidance for ABLE accounts. Medicaid agencies must disregard the full ABLE balance and earnings for Medicaid eligibility; CMS does not import SSI's \$100,000 threshold into Medicaid. Third-party contributions, including qualifying contributions from an SNT or pooled trust, are disregarded. The beneficiary's own income does not lose its income character merely because it is deposited into ABLE. Qualified disability expense distributions, including housing QDE distributions, are disregarded for Medicaid eligibility. Non-QDE distributions require separate MAGI or non-MAGI analysis. [CMS SMD #17-002](#).

ABLE also receives express HUD protection. The value of a § 529A account is excluded from net family assets. HUD guidance further excludes amounts in the beneficiary's ABLE

account, account earnings, qualifying direct third-party contributions, and distributions from annual income, while continuing to count wages merely deposited into the account. [24 C.F.R. § 5.603\(b\)\(3\)\(vi\)](#); [HUD Notice PIH 2019-09 / H 2019-06](#).

At death, ABLE planning requires a separate Medicaid-recovery analysis. IRC § 529A(f) permits a state creditor claim against remaining ABLE funds for qualifying post-establishment Medicaid assistance, subject to statutory adjustments and outstanding QDEs. Federal Medicaid estate-recovery rules can independently require recovery in specified circumstances. State recovery practice, including whether a state pursues discretionary ABLE claims outside mandatory estate-recovery cases, should be confirmed. [CMS SMD #17-002](#); [CMS Estate Recovery Policy](#).

B. The special needs trust

The SNT ordinarily supplies the durable planning structure. It may hold substantial, illiquid, or complex assets; provide professional fiduciary oversight; integrate a care manager or advisory committee; hold investments and real property; and address long-term succession and remainder planning. The trust may also fund an ABLE account when a beneficiary has planned expenses or needs a practical spending account.

The investment comparison is material. An ABLE account offers its sponsoring program's options and generally permits only two changes in investment direction during a calendar year. The SNT can invest under its instrument and applicable fiduciary law. Broader authority can matter for real estate, concentrated positions, privately held assets, and an individualized long-term portfolio. [IRC § 529A\(b\)\(4\)](#).

Tax analysis begins with classification. Many first-party SNTs are grantor trusts whose income is taxed to the beneficiary as owner under Subpart E; a nongrantor SNT instead applies Subchapter J, including DNI, the distribution deduction, and beneficiary income inclusion. Some nongrantor trusts may qualify for the qualified disability trust (QDT) deduction. The label "special needs trust" alone establishes none of these outcomes.

C. Parent-owned and trust-owned 529 accounts after a disability diagnosis

A family need not abandon a 529 plan merely because it later learns that the child has a disability. A **qualified tuition program (529 plan)** under [IRC § 529](#) can remain a useful education vehicle when the beneficiary may pursue college, vocational training, apprenticeships, credentialing, or other qualifying education. The relevant question is who owns and controls the 529 plan: a parent, a third-party SNT, or the beneficiary.

1. Ownership and SSI resources

For SSI purposes, the critical fact is **ownership**, not the identity of the designated beneficiary. A parent who established and continues to own the 529 generally controls distributions, can ordinarily reclaim the funds, and may change the beneficiary within the program's rules. SSA therefore treats the account as the parent's resource. The child's designation as beneficiary, by itself, ordinarily gives the child no ownership right in the

account. A parent-owned 529 is consequently not ordinarily an adult disabled beneficiary's SSI resource. [SSA POMS SI 01140.150\(C\)–\(D\)](#).

The principal exception is **parent-to-child resource deeming**. If the beneficiary is under age 18 and lives with the parent, the parent's countable 529 may be deemed to the child to the extent the parent's total countable resources exceed the applicable deeming allowance. When deeming ends, the 529 remains the parent's resource but generally is not the adult beneficiary's resource. [SSA POMS SI 01140.150\(D\)](#); [SSA POMS SI 01330.200](#).

2. Other federal means-tested programs

The same 529 account may receive different treatment under other federal programs. Under HUD's current HOTMA rules, the value of a § 529 qualified tuition program is excluded from net family assets, and income and distributions from the program are excluded from annual income. Those are categorical HUD exclusions and do not turn on the SSI owner-versus-beneficiary analysis. [24 C.F.R. § 5.603\(b\)\(3\)\(vi\)](#); [24 C.F.R. § 5.609\(b\)\(10\)](#).

CMS has not adopted an equivalent current nationwide rule specifically addressing § 529 accounts for Medicaid eligibility. For MAGI Medicaid, there is no asset or resource test. For non-MAGI eligibility, the account's treatment generally depends on the applicable SSI-derived methodology, state eligibility rules, and any state-plan resource disregard. A planner should therefore confirm current state Medicaid policy rather than import the SSI or HUD result. [CMS Medicaid Eligibility Policy](#); [CMS Financial Verification Bulletin](#).

3. Retaining the 529 for education

A parent-owner may retain the account and use distributions for the beneficiary's qualified education expenses without including the allocable earnings in federal gross income, subject to the applicable § 529 requirements. These may include tuition, fees, books, supplies, required equipment, certain special-needs services incurred in connection with enrollment or attendance, and qualifying credentialing or apprenticeship costs. Room and board is qualified only within its separate half-time-student and dollar-limit rules. [IRC § 529\(c\)\(3\), \(e\)\(3\), \(f\)](#); [IRS Publication 970](#).

The education connection is essential. A disability-related service does not become a tax-free 529 expense merely because it benefits a person with a disability. For example, special-needs services qualify when incurred in connection with enrollment or attendance, and educational therapies qualify within the applicable education setting. Therapy, assistive technology, transportation, personal-care services, or other disability-related costs used outside the required education context generally do not qualify for tax-free 529 treatment. [IRS Publication 970](#); [IRS Topic No. 313](#).

This approach preserves parental control, keeps the account generally outside an adult beneficiary's SSI resources, and preserves tax-free treatment for qualified education spending. It may be particularly valuable for a beneficiary whose educational path is vocational, intermittent, or likely to require disability-related support services in connection with enrollment.

4. A trust-owned 529 plan: a possible alternative to the Crummey-power problem

Estate planners have long faced a difficult problem: how to obtain annual-exclusion treatment for gifts intended to benefit a beneficiary of an irrevocable third-party SNT without giving that beneficiary a withdrawal right that may complicate public-benefits planning.

A conventional Crummey power addresses the gift-tax issue by giving the beneficiary an enforceable, immediate withdrawal right. That right may allow a contribution to be treated as a present-interest gift for purposes of the annual exclusion. [*Crummey v. Commissioner*, 397 F.2d 82 \(9th Cir. 1968\)](#); [*Estate of Cristofani v. Commissioner*, 97 T.C. 74 \(1991\)](#).

For an SSI beneficiary, however, a genuine withdrawal right creates a separate concern. SSA's directly relevant trust opinion treats the amount subject to a presently exercisable limited withdrawal right as income when the right arises and, if the right remains exercisable on the first day of the following month, as a resource for that month. The same opinion treated the beneficiary's lapsed withdrawal right as ending that short-term resource treatment and did not classify the remaining third-party trust corpus as the beneficiary's continuing resource. [SSA POMS PS 01825.025](#).

The remaining concern is more subtle. If the beneficiary declines a withdrawal right, an agency could argue that the lapsed amount became the beneficiary's own asset and was thereafter retained in, or added to, the trust. SSA's national POMS does not expressly adopt that proposition for a lapsed Crummey power. But SSI rules separately provide that a portion of a trust funded with the beneficiary's own assets is analyzed under the beneficiary-funded-trust rules. [SSA POMS SI 01120.200](#); [SSA POMS SI 01120.201](#). Thus, a Crummey power may solve a gift-tax present-interest problem while introducing a benefits-planning issue that the planner must not dismiss.

A trust-owned 529 plan may provide a different path. Assume an irrevocable third-party SNT authorizes ownership of a 529 plan, an independent trustee is the account owner for the trust, and the person with a disability is the plan's designated beneficiary. If the grantor, spouse, grandparent, sibling, or other individual contributes personal funds **directly to the 529 plan**, § 529(c)(2) treats the contribution as a completed gift to the designated beneficiary and as a present-interest gift. The statutory language does not restrict the original contributor to a parent or other family member. [26 U.S.C. § 529\(c\)\(2\)](#).

The statutory annual-exclusion position is strongest when the individual donor contributes directly through the plan, the plan identifies the individual as contributor, the SNT is account owner, and the beneficiary is the designated beneficiary. Whether that position applies to a particular trust-owned account still requires review of the plan agreement, trust terms, and contribution path. If supportable, the donor's available annual exclusion must be measured against that donor's total gifts to the beneficiary for the year; a larger direct contribution may qualify for the five-year § 529 election, with appropriate Form 709 reporting. [IRS Form 709 Instructions](#).

The structure is not equivalent to a gift first made to the SNT. A cash gift to a discretionary third-party SNT is governed by ordinary gift-in-trust rules and may be a future-interest gift absent a valid present-interest mechanism. A trustee's later transfer of preexisting SNT corpus into a trust-owned 529 plan also raises a distinct, unresolved trust-contributor question; it should not be characterized automatically as a new annual-exclusion gift by the trustee, settlor, or trust beneficiary. [IRS Announcement 2008-17](#).

The potential advantage is significant. The trust retains ownership and trustee control of the account, while an individual donor may have a statutory present-interest gift to the designated beneficiary. This may allow multiple individual donors to make separate annual-exclusion contributions for the same designated beneficiary, subject to each donor's separate annual-exclusion limit and other gifts to that beneficiary.

ABLE accounts provide a useful comparison, but not a one-gift limitation. An eligible person may have only one ABLE account, while multiple people may contribute to it. All ABLE contributions, however, share one aggregate annual contribution limit. A 529 plan may instead allow each individual direct contributor to use that donor's own annual exclusion, subject to the contribution, reporting, and account-owner issues discussed here. [26 U.S.C. § 529A](#); [IRS Final ABLE Regulations](#).

The planner's Kobayashi Maru? A Crummey power seeks present-interest treatment by giving the beneficiary a real withdrawal right. A properly structured trust-owned 529 plan may rely instead on Congress's express present-interest rule for a direct 529 contribution—without placing a comparable withdrawal power in the beneficiary's hands.

The analogy should not obscure the caution. The Code does not fully resolve every transfer-tax consequence of an irrevocable trust serving as the 529 plan's account owner. In particular, the trust instrument, 529 plan agreement, contribution path, beneficiary-change authority, withdrawal authority, and intended Form 709 reporting position all require careful review. A planner should present this as a well-grounded statutory planning position, not as a settled answer to every trust-owned-529 issue.

5. Direct payments for noneducation needs

A 529 plan is not a general disability-expense account. The parent can direct a noneducation distribution, but the earnings portion is generally taxable. The 10% additional tax may be excepted when the designated beneficiary is disabled; the exception does **not** make the taxable earnings tax-free. [IRC § 529\(c\)\(6\)](#); [IRS Publication 970](#).

The SSI analysis is separate. A parent's direct vendor payment generally is not cash income to the beneficiary. But a vendor payment that provides shelter—such as rent or mortgage payments—requires separate SSI shelter analysis. The absence of cash income for SSI

purposes does not convert a noneducation 529 distribution into a federally tax-free distribution. [SSA POMS SI 00815.400](#); [20 C.F.R. § 416.1103\(g\)](#).

6. When a rollover to ABLE makes sense

A 529-to-ABLE rollover may be available for the 529 designated beneficiary or a qualifying family member, subject to the annual ABLE contribution limitation and other statutory and plan requirements. It can be useful where funds are needed for broad QDEs rather than for education. [IRC § 529\(c\)\(3\)\(C\)\(i\)\(III\)](#).

Before moving funds, compare the beneficiary's remaining education needs; the value of parental control; the ABLE contribution limit and investment menu; SSI resource and timing rules after withdrawal; plan procedures; and possible state-income-tax recapture. The key is that a disability diagnosis creates a planning choice—not a requirement to liquidate or roll over the 529.

2. ABLE Taxation and Nonqualified Distributions

A. Gift-tax treatment and the annual exclusion

An ABLE contribution is treated as a completed gift to the designated beneficiary and is not a future interest. Consequently, a donor may use the annual gift-tax exclusion for a qualifying contribution, subject to the ABLE contribution limit and the special rules for excess contributions. [IRC § 529A\(b\)\(2\)](#), [\(c\)\(2\)](#).

The annual-exclusion feature should be kept in perspective. It is most significant for a donor with a taxable estate, a donor intentionally using lifetime gift-and-estate-tax exemption, or a donor making gifts above the annual exclusion that would otherwise require reporting and use of exemption. For many families, a gift within the annual exclusion produces no current gift-tax payment. Its practical value is that the contribution is a completed gift while the beneficiary may use the account for permitted purposes; it does not by itself create an income-tax deduction for the donor.

B. Annual matching of distributions and QDEs

The comparison generally occurs over the taxable year. If annual ABLE distributions do not exceed annual QDEs, they are excluded from gross income. If distributions exceed QDEs, only the portion of distributed earnings allocable to the excess is included. [IRC § 529A\(c\)\(1\)](#). The program's information return identifies earnings; the beneficiary's records establish QDEs.

Thus, a non-QDE does not make the entire withdrawal taxable. Only the earnings portion allocable to the excess distribution is taxable. The beneficiary is not taxed again on contributed principal.

C. The 10% additional tax

The statute increases the income tax by 10% of the taxable amount of an ABLE distribution not used for QDEs. The additional tax does not apply to a distribution made to a beneficiary or the beneficiary's estate on or after the beneficiary's death. It also does not apply to a

timely return of a contribution made during the year if returned by the tax-return due date, including extensions, with attributable net income. [IRC § 529A\(c\)\(3\)](#).

At death, federal law permits a state to file a claim against the ABLE account balance for certain Medicaid assistance paid after the account was established, subject to statutory adjustments and outstanding QDEs. This differs from the remainder provisions of a third-party SNT. The particular state's claim procedure and any other applicable recovery rules require separate analysis. [IRC § 529A\(f\)](#).

The familiar 529 tax mechanics are similar but separate. This paper uses § 529A for ABLE accounts; 529 education accounts are governed by § 529.

D. Illustration

Assume the beneficiary receives \$10,000 in ABLE distributions during the year. The distributed amount contains \$2,000 of earnings and \$8,000 of contribution basis. The beneficiary incurs \$9,000 of QDEs and makes a \$1,000 gift to a friend. The gift is not a QDE in the ordinary case because a QDE must relate to the beneficiary's blindness or disability and be for the benefit of the designated beneficiary; a personal gift ordinarily benefits the friend, not the beneficiary. [Treas. Reg. § 1.529A-1\(b\)\(15\)](#).

The unmatched \$1,000 is 10% of annual distributions, so \$200 of the \$2,000 earnings component is included in income; the additional tax is \$20 unless an exception applies. The \$8,000 contribution basis is not taxed again. This assumes the account's reported earnings ratio matches the example and there are no other distributions or QDEs in the year.

This analysis matters in practice. An ABLE account funded and spent in close proximity may have little embedded gain, so the federal tax cost of a non-QDE may be comparatively limited. That observation is not permission to disregard the QDE standard. It is a reason to describe the actual statutory consequence accurately.

E. Reporting and substantiation

The program generally reports distributions and earnings on Form 1099-QA; it cannot determine whether the beneficiary's expenditures qualify. The beneficiary should retain statements, receipts, invoices, and a short explanation for unusual QDEs. Taxable excess and the additional tax may require Form 1040 and Form 5329. See [IRS Publication 907](#) and the instructions for Forms [1099-QA](#) and [5329](#).

The broad QDE definition is valuable, but it is not unlimited. The tax preparer should reconcile total annual distributions with QDEs and determine the taxable earnings and additional tax, if any.

3. SSI Treatment and the Timing of ABLE Distributions

A. The baseline SSI rule

For SSI, a distribution from an ABLE account is a conversion of a resource, not income, whether spent on a nonhousing QDE, housing, or a non-QDE. This is distinct from the federal income-tax QDE test. [SSA POMS SI 01130.740\(C\)\(4\)](#).

The SSI issue arises when a distribution is retained into a later month. Under SSI's first-of-the-month resource rule, a recipient's resources are measured as of the first moment of the month. [SSA POMS SI 01110.600](#).

B. SSA does not ordinarily audit the QDE classification

The POMS makes the institutional division of responsibility unusually clear. SSA generally develops an ABLE distribution only when the recipient or deemor alleges, or other evidence indicates, that all or part of the distribution was retained into later months. When development is appropriate, SSA verifies the amount, date, and recipient of the distribution, but obtains and accepts the individual's allegation that it was used or intended to be used for a nonhousing QDE, housing, or a non-QDE. [SSA POMS SI 01130.740\(F\)\(1\)-\(2\)](#).

Thus, SSA's administrative inquiry focuses on whether a retained withdrawal is a countable resource; it does not substitute for the beneficiary's federal income-tax analysis. The categorization matters most when withdrawn funds cross a month boundary.

C. Retained distributions for nonhousing QDEs

A distribution retained beyond the month of receipt is excluded from countable resources if it is for a QDE not related to housing and all required conditions continue: the funds remain unspent and identifiable, the beneficiary continues the requisite ABLE-account connection, and the beneficiary intends to use the funds for a nonhousing QDE. [SSA POMS SI 01130.740\(C\)\(5\)\(a\)](#).

This permits legitimate advance planning. Funds withdrawn for a health-related expense payable months later can remain in a checking account and stay excluded while they remain identifiable, unspent, and committed to the nonhousing QDE.

D. Retained distributions for housing or non-QDEs

A distribution intended for housing or a non-QDE becomes a countable resource if retained into the next month. Spending it in the month of withdrawal avoids that retained-resource issue; the beneficiary's other resources and the character of any item acquired still require ordinary SSI analysis. [SSA POMS SI 01130.740\(D\)\(2\)](#).

For example, withdrawal in May for June rent leaves the money countable on June 1 if it remains in checking, even if rent is paid June 3. A trustee planning an ABLE contribution for rent should coordinate the contribution, withdrawal, and payment with the calendar month.

E. Housing payments and in-kind support and maintenance

An ABLE distribution used by the beneficiary for housing is treated as a conversion of resources, not SSI income. A trust's direct payment of the beneficiary's shelter costs can raise a separate in-kind support and maintenance issue. Do not assume the same SSI result merely because the economic expenditure is rent in both cases. Review the trust-payment and ABLE rules separately before funding housing. [SSA POMS SI 01130.740\(C\)\(4\)](#); [SSA POMS SI 01120.200](#); [SSA POMS SI 00835.350](#).

F. The two change-of-purpose traps

The POMS contains two important exceptions for funds that were initially excluded because they were held for a nonhousing QDE.

First, if previously excluded funds are later used for housing or a non-QDE, SSA counts the amount used as a resource as of the first moment of the month in which it is spent. The result applies even though the funds were properly excluded in prior months. [SSA POMS SI 01130.740\(D\)\(3\)](#); [\(F\)\(3\)](#).

Second, if the beneficiary no longer intends to use the money for a nonhousing QDE but does not spend it, SSA counts the funds beginning the first day of the following month. The funds may avoid that result if, before the next month begins, the beneficiary redesignates them for another nonhousing QDE or returns them to the ABLE account. [SSA POMS SI 01130.740\(D\)\(3\)](#); [\(F\)\(3\)](#).

These rules are particularly important for advance withdrawals for education, assistive technology, or planned medical expenditures that are later cancelled or change materially.

4. The SNT as a Tax-Planning Device

A. Trust classification comes first

A first-party trust funded with the beneficiary's assets often is a grantor trust, but its income-tax status must be analyzed under the governing terms and Subpart E. For a nongrantor third-party trust, Subchapter J determines whether income is retained by the trust or carried out to the beneficiary. QDT status is a separate question and matters only when the trust itself computes taxable income.

The planner should resist broad statements that "trust income is taxed at trust rates" or that "the beneficiary is taxed at individual rates." Either can be true depending on classification, governing instrument, and annual administration.

B. DNI and the distribution deduction

For a complex trust, [IRC § 661](#) permits a deduction for income required to be distributed currently and other amounts properly paid, credited, or required to be distributed, limited by DNI. Under [IRC § 662](#), the beneficiary includes the corresponding amount in gross income. The distributed amount generally retains its character in the beneficiary's hands.

DNI is defined in [IRC § 643](#) and is not simply trust accounting income. Capital gains ordinarily are excluded from DNI to the extent allocated to corpus and not paid, credited, or required to be distributed, though governing-instrument provisions, state law, and administration can affect the result.

The practical tax question is therefore not whether a trust can distribute funds. It is whether the trustee should retain taxable income, carry out DNI, make a benefits-safe payment, or fund an ABLE account as part of an annual tax and distribution plan.

C. Qualified disability trust status

A nongrantor trust meeting the statutory definition of a qualified disability trust may claim the special deduction under [IRC § 642\(b\)\(2\)\(C\)](#). The 2026 amount is \$5,300. [IRS Rev. Proc. 2025-32, § 4.35](#). The deduction is not an automatic exemption of trust income, and a trust treated as owned by a grantor does not use it to offset income taxed directly to that owner.

QDT status requires a trust that meets the Code's disability-trust definition, including disability of the beneficiaries under the statutory test. The instrument and facts, including the remainder interests, deserve review before claiming the deduction. It does not replace DNI calculations or annual distribution planning.

Capital gains often remain with the trust when allocated to corpus, but the governing instrument, local law, and consistent fiduciary treatment can change DNI analysis under Treas. Reg. § 1.643(a)-3. A distribution of principal is not automatically a distribution of capital-gain DNI.

D. The annual administration meeting

A pre-year-end conference among the trustee, tax preparer, attorney, and benefits adviser can address classification, QDT eligibility, taxable income and DNI, the beneficiary's tax position, proposed distributions, ABLE contribution capacity, housing timing, and the possible 65-day election under IRC § 663(b). The election itself has requirements and should be evaluated by the return preparer.

5. Funding ABLE from an SNT

An SNT contribution to ABLE is a classic example of why the tax, benefits, and administration questions must be answered separately.

A. Benefits analysis

SSA excludes a qualifying third-party contribution to the beneficiary's ABLE account from SSI income when the funds do not already belong to or become due to the beneficiary. The trust payment must be analyzed on its facts; routing the beneficiary's own income through ABLE does not erase that income. [SSA POMS SI 01130.740\(C\)\(1\)\(b\)](#).

B. Tax analysis

SSI exclusion does not decide federal trust income tax. An authorized payment from a nongrantor SNT to the beneficiary's ABLE account may carry out DNI under [IRC §§ 661–662](#), depending on the trust terms, the nature of the payment, and the year's facts. For a

grantor trust, the owner generally bears income tax under the grantor-trust rules regardless of the contribution. An ABLE deposit does not itself make a trust distribution tax-free.

Thus, the planner should not say that a trust-to-ABLE contribution is “tax-free.” The ABLE account may later generate tax-free QDE distributions, but the trust’s current-year DNI and beneficiary K-1 analysis remains separate.

C. Administration analysis

The trustee should identify the intended use before contributing. A contribution plan should account for the annual ABLE limit, expected QDEs, housing timing, recordkeeping, investment horizon, beneficiary capacity and support, and the possible effect of ABLE ownership and end-of-life rules.

The ABLE account is often best used for planned expenses and a measured reserve. Keep trust-level investment and succession goals in view before transferring a large balance to a beneficiary-owned account.

6. Applied Examples

Example 1: The ABLE reflex

An SSI recipient has a \$600,000 nongrantor third-party SNT that earns \$18,000 of ordinary income and dividends. Assume, after reviewing its terms and beneficiaries, that it qualifies for the QDT deduction. The beneficiary has an ABLE account and expects \$8,000 of QDEs this year.

Funding \$8,000 of planned expenses through ABLE may be sensible, but the trustee should not move all \$18,000 simply because ABLE earnings can be tax-free. First calculate trust deductions and DNI, the beneficiary’s tax position, any K-1 inclusion, the ABLE annual limit, and the trust’s longer investment horizon. The \$5,300 QDT deduction applies at the trust level if available; it does not automatically shelter a distribution carried out to the beneficiary.

Example 2: Housing and retained money

An SNT makes an authorized ABLE contribution so the beneficiary can pay rent. The beneficiary withdraws the needed amount and pays rent in the same calendar month. The ABLE withdrawal is not SSI income, and nothing from that withdrawal remains as a resource on the next first of the month. Separately analyze the SNT contribution for trust income tax and verify that the contribution is excluded from SSI income.

If, however, the beneficiary withdraws ABLE funds in May to pay June rent and holds the money through May 31, it is a countable resource on June 1. The fact that the beneficiary pays rent on June 3 does not change the June resource result.

Example 3: Change of plan

A beneficiary withdraws \$7,000 from ABLE for a September nonhousing education expense and keeps the funds identifiable in checking. In August, the beneficiary accepts a job and decides not to enroll. If the beneficiary retains the money without redesignating it for another nonhousing QDE or returning it to ABLE, the funds are countable beginning September 1. If the beneficiary instead uses part of the previously excluded sum in August for advance rent, that amount is countable in August.

Example 4: The parent-owned 529 after a disability diagnosis

Before learning that their child had a disability, parents established a 529 plan and remain its owners. Their child is now 27, receives SSI, has completed a certificate program, and is the designated beneficiary. The child also has an SNT and an ABLE account.

The first question is not whether the parents should immediately roll the 529 into ABLE. Because they retain ownership and control, the 529 generally remains their resource rather than the adult child's SSI resource. They may retain it for future education, credentialing, or enrollment-related special-needs expenses and direct qualified payments to an eligible educational institution tax-free.

If the family anticipates broad QDEs that do not qualify as education expenses, a limited rollover to ABLE may be useful within the annual ABLE limit. If the parents instead use the 529 for an ordinary noneducation expense, they must determine the taxable earnings portion of the distribution—even if direct payment to a vendor does not constitute cash income to the SSI recipient. If education is a meaningful planning objective, the trustee of the third-party SNT might instead consider owning a separate 529 plan, subject to the trust instrument and program agreement. The SNT remains the preferred home for future third-party gifts intended for long-term fiduciary management; a 529 plan balance cannot simply be transferred to the SNT without separate tax analysis.

Conclusion

ABLE, 529, and SNT planning works best when each transaction is tested for federal tax, SSI, and practical control. The SNT may hold and manage long-term assets, while ABLE can pay planned QDEs and give the beneficiary a useful spending channel. A 529 plan can support education and, where permitted, supply limited funds to ABLE.

- The **SNT** often supplies the durable long-term fiduciary, investment, and distribution structure, together with investment authority not confined to a sponsoring ABLE program's menu.
- The **ABLE account** can serve as a tax-advantaged, beneficiary-facing spending pocket for planned QDEs and SSI-sensitive expenditures.
- The **529 account** remains an education and credentialing vehicle that can sometimes bridge to ABLE when statutory conditions are satisfied.

There is no categorical tax winner. Determine the trust's actual tax classification; estimate where income will be taxed; apply the annual ABLE contribution and QDE rules; and check

the month in which money leaves ABLE. These steps let the trustee select a transaction for the beneficiary's circumstances instead of relying on the shorthand that ABLE is always tax-free or SNT income is always taxed at compressed trust rates.

Selected Primary Authorities

- [26 U.S.C. § 529A — Qualified ABLE Programs](#)
- [26 U.S.C. § 530A — Trump Accounts](#)
- [IRS Notice 2025-68 — Trump-account rollover guidance](#)
- [26 U.S.C. § 529 — Qualified Tuition Programs](#)
- [26 U.S.C. § 642 — Special Rules for Credits and Deductions](#)
- [26 U.S.C. § 643 — Definitions Applicable to Trust Taxation](#)
- [26 U.S.C. § 661 — Trust Distribution Deduction](#)
- [26 U.S.C. § 662 — Beneficiary Inclusion](#)
- [IRS Rev. Proc. 2025-32](#)
- [IRS Publication 907](#)
- [IRS Publication 970](#)
- [IRS Topic No. 313 — Qualified Tuition Programs](#)
- [IRS Instructions for Forms 1099-QA and 5498-QA](#)
- [IRS Instructions for Form 5329](#)
- [SSA POMS SI 01130.740 — ABLE Accounts](#)
- [CMS SMD #17-002 — Implications of the ABLE Act for State Medicaid Programs](#)
- [CMS Estate Recovery Policy](#)
- [24 C.F.R. § 5.603 — Net Family Assets](#)
- [HUD Notice PIH 2019-09 / H 2019-06 — ABLE Account Treatment](#)
- [SSA POMS SI 01140.150 — Qualified Tuition Programs](#)
- [SSA POMS SI 01330.200 — Resource Deeming](#)
- [SSA POMS SI 00815.400 — Third-Party Payments](#)
- [SSA POMS SI 01110.600 — First-of-the-Month Resource Rule](#)
- [SSA POMS PS 01825.025 — Scott Trust Crummey-Style Withdrawal Right](#)
- [SSA POMS SI 01120.200 — Third-Party Trusts](#)
- [SSA POMS SI 01120.201 — Trusts Funded with an Individual's Assets](#)
- [Crummey v. Commissioner, 397 F.2d 82 \(9th Cir. 1968\)](#)
- [Estate of Cristofani v. Commissioner, 97 T.C. 74 \(1991\)](#)
- [IRS Announcement 2008-17 — Trust Contributions and Account Owners Under § 529](#)
- [Treas. Reg. § 1.529A-1 — ABLE definitions](#)
- [Treas. Reg. § 1.529A-2\(h\) — Qualified disability expenses](#)
- [Treas. Reg. § 1.643\(a\)-3 — Capital gains in DNI](#)
- [20 C.F.R. § 416.1103](#)