

Rivkin, Rivkin,
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ESTATE PLANNING

Comparing Supplemental Needs Trusts and ABLE Accounts

The following chart compares the salient features of first-party supplemental needs trusts, pooled trusts, third-party supplemental needs trusts, and ABLE accounts.

	First-Party “d(4)(A),” “OBRA,” or “Payback” SNT	Pooled SNT	Third-Party SNT	ABLE Account
Who May Create	Individual with a disability, their parent, grandparent, or guardian, or the court	Individual with a disability, their parent, grandparent, or guardian, or the court	Anyone other than individual with a disability	Anyone, including individual with a disability
Who May Fund	Individual with a disability (subject to the seeding discussion below)	Anyone, but generally will be funded just by individual with a disability	Anyone other than individual with a disability	Anyone
Timing of Funding	Before individual with a disability reaches 65	Anytime, subject to period of ineligibility in some states if funded after age 65	Anytime	Anytime
Beneficiary	Any individual with a disability	Any individual with a disability	Any individual with a disability and, in some cases, others	Any individual with a disability who was blind or disabled before age 26

	First-Party “d(4)(A),” “OBRA,” or “Payback” SNT	Pooled SNT	Third-Party SNT	ABLE Account
Number of Such Trusts/Accounts Permitted	Unlimited	Unlimited	Unlimited	One
Annual Contribution Limits	None	None	None	The gift tax annual exclusion amount from all contributors (plus additional amount when funded with employment earnings of individual with a disability)
Rollover Permissible from 529 College Savings Plan for Same Beneficiary or Family Member	No	No	No	Yes, subject to annual contribution limits (through 2025 under current law)
Illinois State Income Tax Deduction for Contributions	No	No	No	Yes, if to an Illinois ABLE account (through 2027 under current law)
Total Funding Limits	None	None	None	Each state will have its own total funding limit, but only \$100,000 of account is exempt for SSI purposes
Income Taxable?	Yes	Yes	Yes	No, if used for qualified disability expenses

	First-Party “d(4)(A),” “OBRA,” or “Payback” SNT	Pooled SNT	Third-Party SNT	ABLE Account
Third-Party Contributions Qualify for Gift Tax Annual Exclusion	N/A generally	N/A generally	No	Yes
Medicaid Reimbursement at Beneficiary’s Death	Yes	Yes	No	Yes, in some cases
Remainder Beneficiary after any Applicable Medicaid Reimbursement	Any individual or organization specified by the trust grantor	Determined by Pooled Trust Master Agreement	Any individual or organization specified by the trust grantor	Beneficiary designated in account agreement

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