

**WISCONSIN DEPARTMENT OF REVENUE  
DIVISION OF INCOME, SALES, AND EXCISE TAX**

**NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

**SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

**DEADLINE FOR SUBMISSION**

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

<b>Document Number</b>	<b>Document Title</b>
<b>100091</b>	ABLE Accounts - Common Questions

State of Wisconsin  
Department of Revenue

## ABLE Accounts

**This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.**

1. What are ABLE savings plans?
2. Who is an eligible individual who may open an ABLE account?
3. Who is considered the owner of the account?
4. Are ABLE accounts available in Wisconsin?
5. Who may claim a subtraction for contributions to an ABLE account?
6. How much can be contributed to an ABLE account in a year?
7. Is there a penalty if the maximum contribution is exceeded?
8. Do I need to pay tax on distributions from an ABLE account?
9. What are qualified disability expenses?
10. May I claim medical expenses, paid with funds withdrawn from an ABLE account, for the itemized deduction credit?
11. Where can I get more information on ABLE accounts?

---

### 1. **What are ABLE savings plans?**

On December 19, 2014, the Achieving a Better Life Experience (ABLE) Act was enacted as part of P.L. 113-295. This Act permitted states to establish tax-advantaged savings accounts for certain individuals with disabilities to use for certain disability-related expenses. An ABLE account allows individuals with a disability to save and invest money without losing certain federal benefits. Income from the account is tax-free when used for qualified expenses.

### 2. **Who is an eligible individual who may open an ABLE account?**

An individual who became blind or disabled before the age of 26 is eligible to open an ABLE account. Age at diagnosis is not a factor as long as the disability began before age 26.

A disabled individual may be eligible if either of the following applies:

- Is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, or
- Files a disability certification with the qualified ABLE program, including a diagnosis relating to the relevant impairment or impairments signed by a physician. You must certify one of the following:
  - You have a medically determinable physical or mental impairment which results in marked and severe functional limitations, which (a) can be expected to result in death or (b) lasted or can be expected to last for a continuous period of not less than 12 months; or

- You are blind within the meaning of section 1614(a)(2) of the Social Security Act.

### 3. Who is considered the owner of the account?

The designated beneficiary is the eligible individual who established and is the owner of the ABLE account. However, if the eligible individual is a minor child or is otherwise incapable of managing the account, the individual's agent, under a power of attorney, or if none, a parent or legal guardian can establish the account for the eligible individual.

A designated beneficiary is limited to only one ABLE account at a time.

### 4. Are ABLE accounts available in Wisconsin?

Wisconsin has adopted the provision of federal law that allows ABLE accounts to be established in any State, not just in the State of residence of the disabled individual. Individuals with disabilities may establish an ABLE account in another state as Wisconsin does not have an ABLE program.

**Note** As of October 2, 2019, the following states have launched their ABLE programs:

Alabama	Montana
Alaska	Nevada
Arizona	Nevada
Arkansas	New Hampshire
California	New Jersey
Colorado	New Mexico
Delaware	New York
District of Columbia	North Carolina
Florida	Ohio
Georgia	Oklahoma
Illinois	Oregon
Indiana	Pennsylvania
Iowa	Rhode Island
Kansas	South Carolina
Kentucky	Tennessee
Louisiana	Texas
Maryland	Vermont
Massachusetts	Virginia
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wyoming
Missouri	
Montana	

ABLE programs in the following states are available to residents of other states.

Alabama	Michigan
Alaska	Minnesota
Arkansas	Mississippi
California	Montana
Colorado	Nebraska

Delaware  
District of Columbia  
Illinois  
Indiana  
Iowa  
Kansas  
Maryland  
Massachusetts

Nevada  
New Jersey  
North Carolina  
Ohio  
Pennsylvania  
Rhode Island  
Virginia

More states may become available at a later date.

#### 5. **Who may claim a subtraction for contributions to an ABLE account?**

A Wisconsin subtraction from federal adjusted gross income is allowed for the amount deposited in the taxable year into an ABLE account by an account owner or any other person. This subtraction does not apply to rollovers or transfers to the account.

#### 6. **How much can be contributed to an ABLE account in a year?**

The maximum amount of annual contributions that may be made by all contributors to an account for a particular beneficiary is the federal gift tax exclusion amount for the year (\$15,000 for 2019).

An additional amount of contributions is allowed as a subtraction by a designated beneficiary equal to the lesser of the following:

- The designated beneficiary's compensation (included in gross income for the taxable year)
- The federal poverty line for a one-person household (\$12,490 for 2019)

This increase is only allowed if the designated beneficiary is an employee and no contributions have been made to a defined contribution plan, annuity contract, or deferred compensation plan. See the Form 1 and 1NPR instructions for additional information.

**Note:** Amounts rolled over from a qualified tuition program to an ABLE account of the designated beneficiary, or a member of the family of the designated beneficiary, is not required to be added to Wisconsin income. The income rolled over cannot exceed \$15,000 for 2019. While this amount may be rolled over, the subtraction is not allowed for the amount rolled over.

#### 7. **Is there a penalty if the maximum contribution is exceeded?**

The ABLE program must return to the contributors the excess contributions (amount over the gift tax exclusion amount) and the earnings on those contributions on or before the due date (including extensions) of the owner's income tax return. Excess contributions and earnings that aren't returned by the ABLE program to the contributors by the due date are subject to a federal 6% additional tax. The Wisconsin penalty is 33% of this amount.

#### 8. **Do I need to pay tax on distributions from an ABLE account?**

To the extent not included in federal adjusted gross income, an addition to income is required for:

- Any amount withdrawn from a qualified ABLE account for any reason other than the payment of qualified disability expenses for the account beneficiary.
- Any amount in an account that is returned to the account owner or the account owner's estate upon termination of the account due to the death of the account owner or account beneficiary.

Any accumulated interest, dividends, or other gain that accrues from an account during the taxable year in which any money or other account assets are withdrawn by, or at the direction of, an account owner for any reason other than the payment of qualified expenses for the account beneficiary, must be included in federal income. These earnings must also be included in Wisconsin income.

## 9. What are qualified disability expenses?

"Qualified expenses" are any expenses related to the account beneficiary's blindness or disability that are made for the benefit of an account beneficiary, including:

1. Education
2. Housing
3. Transportation
4. Employment training and support
5. Assistive technology and personal support services
6. Health
7. Prevention and wellness
8. Financial management and administrative services
9. Legal fees
10. Expenses for oversight and monitoring
11. Funeral and burial expenses
12. Other expenses, which are approved by the Internal Revenue Service under regulations and consistent with the purposes of ABLE programs

## 10. May I claim medical expenses, paid with funds withdrawn from an ABLE account, for the itemized deduction credit?

No. Medical expenses claimed as federal itemized deductions are not allowed in computing the Wisconsin itemized deduction credit to the extent the funds used to pay the expenses were withdrawn from an ABLE Program account.

## 11. Where can I get more information on ABLE accounts?

Additional information can be found in federal [!\[\]\(47734e4656765d20df4fdbd5b7aff048\_img.jpg\) Publication 907, Tax Highlights for Persons with Disabilities.](#)

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 1, 2019: Sections 71.05, 71.83 and 71.98, Wis. Stats.

Laws enacted and in effect after November 1, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 1, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

**FOR QUESTIONS OR COMMENTS CONTACT:**

MS 5-77

WISCONSIN DEPARTMENT OF REVENUE

Customer Service Bureau

PO Box 8949

Madison, WI 53708-8949

Phone: (608) 266-2486

Fax: (608) 267-1030

Email additional questions to [DORIncome@wisconsin.gov](mailto:DORIncome@wisconsin.gov)Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

Guidance Document Number: 100091

November 1, 2019

[About Us](#) [Contact Us](#) [Employment](#) [Media Room](#) [Plain Language](#) [Privacy](#) [Legal](#)  
[Training](#)



Copyright © State of Wisconsin All Rights Reserved