

113TH CONGRESS
1ST SESSION

H. R. 647

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2013

Mr. CRENSHAW (for himself, Mr. VAN HOLLEN, Mrs. McMORRIS RODGERS, Mr. SESSIONS, Mr. RUNYAN, Mr. MICA, Ms. TSONGAS, Mr. COFFMAN, Mr. ROE of Tennessee, Mr. COOPER, Mr. MORAN, Mr. HARPER, Mr. CONNOLLY, Mr. SARBANES, Ms. CLARKE, Mr. LARSEN of Washington, Mr. GERLACH, Mr. LARSON of Connecticut, Mr. CARSON of Indiana, Mr. TONKO, Mr. CICILLINE, Mr. RYAN of Ohio, Mr. YOUNG of Florida, Mr. HOLT, Mrs. CAPPS, Mr. BACHUS, Mr. MCGOVERN, Ms. BONAMICI, Mr. MATHESON, Mr. MILLER of Florida, Mr. NUNNELEE, Mr. STIVERS, Mr. WOMACK, Ms. HERRERA BEUTLER, Mr. JOHNSON of Ohio, Mrs. DAVIS of California, Mr. COURTNEY, Mr. KING of New York, Mrs. HARTZLER, Mr. MCKINLEY, Mr. SMITH of New Jersey, Mr. VELA, Mr. WOLF, Mrs. CAPITO, Mr. YARMUTH, Ms. BROWNLEY of California, Mr. YODER, Mr. ROONEY, Mr. MARCHANT, Mrs. BROOKS of Indiana, Ms. NORTON, Mrs. BACHMANN, Mr. HONDA, Mr. MEEHAN, Mr. BENISHEK, Mr. POE of Texas, Mr. WELCH, Mr. WALBERG, and Mr. DEUTCH) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established

under State programs for the care of family members with disabilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Achieving a Better
5 Life Experience Act of 2013” or the “ABLE Act of
6 2013”.

7 **SEC. 2. PURPOSES.**

8 The purposes of this Act are as follows:

9 (1) To encourage and assist individuals and
10 families in saving private funds for the purpose of
11 supporting individuals with disabilities to maintain
12 health, independence, and quality of life.

13 (2) To provide secure funding for disability-re-
14 lated expenses on behalf of designated beneficiaries
15 with disabilities that will supplement, but not sup-
16 plant, benefits provided through private insurance,
17 the Medicaid program under title XIX of the Social
18 Security Act, the supplemental security income pro-
19 gram under title XVI of such Act, the beneficiary’s
20 employment, and other sources.

21 **SEC. 3. ABLE ACCOUNTS.**

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—Section 529 of the Internal
24 Revenue Code of 1986 is amended by redesignating

1 subsection (f) as subsection (g) and by inserting
2 after subsection (e) the following new subsection:

3 “(f) ABLE ACCOUNTS.—

4 “(1) GENERAL RULES.—For purposes of any
5 other provision of law with respect to a qualified
6 ABLE program and an ABLE account, except as
7 otherwise provided in this subsection—

8 “(A) a qualified ABLE program and an
9 ABLE account shall be treated in the same
10 manner as a qualified tuition program and an
11 account described in subsection (b)(1)(A)(ii),
12 respectively, are treated,

13 “(B) qualified disability expenses with re-
14 spect to a program or account described in sub-
15 paragraph (A) shall be treated in the same
16 manner as qualified higher education expenses
17 are treated, and

18 “(C) maximum contributions shall be no
19 higher than the limit established by the State
20 for their regular 529 account.

21 “(2) QUALIFIED ABLE PROGRAM.—For pur-
22 poses of this subsection, the term ‘qualified ABLE
23 program’ means a program established and main-
24 tained by a State or agency or instrumentality there-
25 of—

1 “(A) under which a person may make con-
2 tributions to an ABLE account which is estab-
3 lished for the purpose of meeting the qualified
4 disability expenses of the designated beneficiary
5 of the account,

6 “(B) which meets the requirements of the
7 preceding subsections of this section (as modi-
8 fied by this subsection), determined by sub-
9 stituting—

10 “(i) ‘qualified ABLE program’ for
11 ‘qualified tuition program’, and

12 “(ii) ‘ABLE account’ for ‘account’,
13 and

14 “(C) which meets the other requirements
15 of this subsection.

16 “(3) QUALIFIED DISABILITY EXPENSES.—For
17 purposes of this subsection—

18 “(A) IN GENERAL.—The term ‘qualified
19 disability expenses’ means any expenses which
20 are made for the benefit of an individual with
21 a disability who is a designated beneficiary.

22 “(B) EXPENSES INCLUDED.—The fol-
23 lowing expenses shall be qualified disability ex-
24 penses if such expenses are made for the benefit
25 of an individual with a disability who is a des-

1 ignated beneficiary and are related to such dis-
2 ability:

3 “(i) EDUCATION.—Expenses for edu-
4 cation, including tuition for preschool thru
5 post-secondary education, which shall in-
6 clude higher education expenses (as de-
7 fined by subsection (e)(3)) and expenses
8 for books, supplies, and educational mate-
9 rials related to preschool and secondary
10 education, tutors, and special education
11 services.

12 “(ii) HOUSING.—Expenses for a pri-
13 mary residence, including rent, purchase of
14 a primary residence or an interest in a pri-
15 mary residence, mortgage payments, real
16 property taxes, and utility charges.

17 “(iii) TRANSPORTATION.—Expenses
18 for transportation, including the use of
19 mass transit, the purchase or modification
20 of vehicles, and moving expenses.

21 “(iv) EMPLOYMENT SUPPORT.—Ex-
22 penses related to obtaining and maintain-
23 ing employment, including job-related
24 training, assistive technology, and personal
25 assistance supports.

1 “(v) HEALTH, PREVENTION, AND
2 WELLNESS.—Expenses for health and
3 wellness, including premiums for health in-
4 surance, mental health, medical, vision,
5 and dental expenses, habilitation and reha-
6 bilitation services, durable medical equip-
7 ment, therapy, respite care, long term serv-
8 ices and supports, nutritional management,
9 communication services and devices, adapt-
10 ive equipment, assistive technology, and
11 personal assistance.

12 “(vi) MISCELLANEOUS EXPENSES.—
13 Financial management and administrative
14 services; legal fees; expenses for oversight;
15 monitoring; home improvements, and modi-
16 fications, maintenance and repairs, at pri-
17 mary residence; or funeral and burial ex-
18 penses.

19 “(vii) ASSISTIVE TECHNOLOGY AND
20 PERSONAL SUPPORT SERVICES.—Expenses
21 for assistive technology and personal sup-
22 port with respect to any item described in
23 clauses (i) through (vi).

24 “(viii) OTHER APPROVED EX-
25 PENSES.—Any other expenses which are

1 approved by the Secretary under regula-
2 tions and consistent with the purposes of
3 this section.

4 “(C) INDIVIDUAL WITH A DISABILITY.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (ii), an individual is an in-
7 dividual with a disability for a year if the
8 individual (regardless of age)—

9 “(I) has a medically determinable
10 physical or mental impairment, which
11 results in marked and severe func-
12 tional limitations, and which can be
13 expected to result in death or which
14 has lasted or can be expected to last
15 for a continuous period of not less
16 than 12 month, or

17 “(II) is blind.

18 “(ii) DISABILITY CERTIFICATION RE-
19 QUIRED.—An individual shall not be treat-
20 ed as an individual with a disability for a
21 year unless the individual—

22 “(I) is receiving (or, for purposes
23 of title XIX of the Social Security
24 Act, is deemed to be, or treated as, re-
25 ceiving by the State Medicaid Agency)

1 benefits under the supplemental secu-
2 rity income program under title XVI
3 of such Act, or whose benefits under
4 such program are suspended other
5 than by reason of misconduct,

6 “(II) is receiving disability bene-
7 fits under title II of such Act, or

8 “(III) files a disability certifi-
9 cation with the Secretary for such
10 year.

11 “(iii) DISABILITY CERTIFICATION DE-
12 FINED.—The term ‘disability certification’
13 means, with respect to an individual, a cer-
14 tification to the satisfaction of the Sec-
15 retary by the designated beneficiary or the
16 parent or guardian of the designated bene-
17 ficiary that—

18 “(I) the individual meets the cri-
19 teria described in clause (i), and

20 “(II) includes a copy of the des-
21 ignated beneficiary’s diagnosis, signed
22 by a physician meeting the criteria of
23 section 1861(r)(1) of the Social Secu-
24 rity Act.

1 “(iv) RESTRICTION ON USE OF CER-
2 TIFICATION.—No inference may be drawn
3 from a disability certification for purposes
4 of establishing eligibility for benefits under
5 title II, XVI, or XIX of the Social Security
6 Act.

7 “(4) ROLLOVERS FROM ABLE ACCOUNTS.—Sub-
8 section (c)(3)(A) shall not apply to any amount paid
9 or distributed from an ABLE account to the extent
10 that the amount received is paid, not later than the
11 60th day after the date of such payment or distribu-
12 tion, into—

13 “(A) another ABLE account for the ben-
14 efit of—

15 “(i) the same beneficiary, or

16 “(ii) an individual with a disability
17 who is a family member of the beneficiary,

18 “(B) any trust which is described in sub-
19 paragraph (A) or (C) of section 1917(d)(4) of
20 the Social Security Act and which is for the
21 benefit of an individual described in clause (i)
22 or (ii) of subparagraph (A), or

23 “(C) a qualified tuition program—

24 “(i) for the benefit of the designated
25 beneficiary, or

1 “(ii) to the credit of another des-
2 ignated beneficiary under a qualified tui-
3 tion program who is a member of the fam-
4 ily of the designated beneficiary with re-
5 spect to which the distribution was made.

6 The preceding sentence shall not apply to any pay-
7 ment or distribution if it applied to any prior pay-
8 ment or distribution during the 12-month period
9 ending on the date of the payment or distribution.

10 “(5) TRANSFER TO STATE.—Subject to any
11 outstanding payments due for qualified disability ex-
12 penses, in the case that the designated beneficiary
13 dies or ceases to be an individual with a disability,
14 all amounts remaining in the qualified ABLE ac-
15 count not in excess of the amount equal to the total
16 medical assistance paid for the designated bene-
17 ficiary after the establishment of the account, net of
18 any premiums paid from the account or paid by or
19 on behalf of the beneficiary to a Medicaid Buy-In
20 program, under any State Medicaid plan established
21 under title XIX of the Social Security Act shall be
22 distributed to such State upon filing of a claim for
23 payment by such State. For purposes of this para-
24 graph, the State shall be a creditor of an ABLE ac-
25 count and not a beneficiary. Subsection (c)(3) shall

1 not apply to a distribution under the preceding sen-
2 tence.

3 “(6) REGULATIONS.—Not later than 6 months
4 after the date of the enactment of this section, the
5 Secretary may prescribe such regulations or other
6 guidance as the Secretary determines necessary or
7 appropriate to carry out the purposes of this section,
8 including regulations to prevent fraud and abuse
9 with respect to amounts claimed as qualified dis-
10 ability expenses.”.

11 (2) CONFORMING AMENDMENT.—Paragraph (2)
12 of section 6693(a) of the Internal Revenue Code of
13 1986 such Code is amended by striking “and” at the
14 end of subparagraph (D), by striking the period at
15 the end of subparagraph (E) and inserting “and”,
16 and by inserting after subparagraph (E) the fol-
17 lowing new subparagraph:

18 “(F) section 529(d) by reason of 529(f)
19 (relating to ABLE accounts).”.

20 (b) ANNUAL REPORTS.—

21 (1) IN GENERAL.—The Secretary of the Treas-
22 ury shall report annually to Congress on the usage
23 of ABLE accounts under section 529(f) of the Inter-
24 nal Revenue Code of 1986.

1 (2) CONTENTS OF REPORT.—Any report under
2 paragraph (1) may include—

3 (A) the number of people with an ABLE
4 account,

5 (B) the total amount of contributions to
6 such accounts,

7 (C) the total amount and nature of dis-
8 tributions from such accounts,

9 (D) issues relating to the abuse of such ac-
10 counts, if any, and

11 (E) the amounts repaid from such ac-
12 counts to State Medicaid programs established
13 under title XIX of the Social Security Act.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 the date of the enactment of this Act.

17 **SEC. 4. TREATMENT OF ABLE ACCOUNTS UNDER CERTAIN**
18 **FEDERAL PROGRAMS.**

19 (a) ACCOUNT FUNDS DISREGARDED FOR PURPOSES
20 OF CERTAIN OTHER MEANS-TESTED FEDERAL PRO-
21 GRAMS.—Notwithstanding any other provision of Federal
22 law that requires consideration of 1 or more financial cir-
23 cumstances of an individual, for the purpose of deter-
24 mining eligibility to receive, or the amount of, any assist-
25 ance or benefit authorized by such provision to be provided

1 to or for the benefit of such individual, any amount (in-
2 cluding earnings thereon) in any ABLE account (as de-
3 fined in section 529(f) of the Internal Revenue Code of
4 1986) of such individual, and any distribution for qualified
5 disability expenses (as defined in paragraph (3) of such
6 section) shall be disregarded for such purpose with respect
7 to any period during which such individual maintains,
8 makes contributions to, or receives distributions from such
9 ABLE account, except that, in the case of the supple-
10 mental security income program under title XVI of the
11 Social Security Act, a distribution for housing expenses
12 (as defined in subparagraph (B)(ii) of such paragraph)
13 shall not be so disregarded, and in the case of such pro-
14 gram, only the 1st \$100,000 of the amount (including
15 such earnings) in such ABLE account shall be so dis-
16 regarded.

17 (b) SUSPENSION OF SSI BENEFITS DURING PERI-
18 ODS OF EXCESSIVE ACCOUNT FUNDS.—

19 (1) IN GENERAL.—The benefits of an individual
20 under the supplemental security income program
21 under title XVI of the Social Security Act shall not
22 be terminated, but shall be suspended, by reason of
23 excess resources of the individual attributable to an
24 amount in the ABLE account (as defined in section
25 529(f) of the Internal Revenue Code of 1986) of the

1 individual not disregarded under subsection (a) of
2 this section.

3 (2) NO IMPACT ON MEDICAID ELIGIBILITY.—An
4 individual who would be receiving payment of such
5 supplemental security income benefits but for the
6 application of the previous sentence shall be treated
7 for purposes of title XIX of the Social Security Act
8 as if the individual continued to be receiving pay-
9 ment of such benefits.

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