

MEMO# 29329

September 11, 2015

ICI Draft Comment Letter to the IRS on Proposed ABLE Act Regulations; Comments Requested by September 16

[29329]

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TO: ABLE ACT ISSUES WORKING GROUP

TRANSFER AGENT ADVISORY COMMITTEE No. 47-15 RE: ICI DRAFT COMMENT LETTER TO THE IRS ON PROPOSED ABLE ACT REGULATIONS; COMMENTS REQUESTED BY SEPTEMBER 16

As we previously informed you,* earlier this summer the Internal Revenue Service (IRS) published for comment proposed rules to implement the ABLE Act, Section 529A of the Internal Revenue Code. In response to the IRS's request, the Institute has prepared the attached draft comment letter. The recommendations in the Institute's letter are briefly summarized below.

Comments are due to the IRS by September 21st. Accordingly, persons with comments on the Institute's draft letter should provide them to the undersigned no later than Wednesday, September 16th. Comments may be submitted by phone (202-326-5825) or email (tamara@ici.org). To the extent Institute members recommend revisions to the letter's text, please provide such revisions via email.

Summary of the Recommendations in the Institute's Draft Letter

The Institute's letter supports the IRS's rulemaking but recommends revisions to it to ensure that the states' 529A programs are able to operate consistently with their 529 college savings plans. The letter notes that such commonality between ABLE Act programs and college savings plans will provide greater efficiencies and reduce the costs associated with operating ABLE Act programs, to the benefit of the program's designated beneficiaries. Among other things, the Institute's letter recommends that:

- The IRS permit designated beneficiaries to self-certify their eligibility to open and maintain ABLE Act accounts;
- The regulations place the onus for documenting the use of account disbursements for qualified disability expenses on the designated beneficiary and not on the program or financial institutions;
- The IRS streamline the process for returning excess contributions;

- The IRS clarify that checking or debit card privileges associated with an account will not be considered an investment direction or pledging of interest;
- The IRS clarify the treatment of post-death payments as qualified expenses;
- The IRS clarify issues relating to the tax treatment of the designated beneficiary as a contributor; and
- The regulations not require programs to collect the tax identification numbers of all contributors to an account.

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[Attachment](#)

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