this title] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 20, 1996].

''(2) TRANSITION RULE.—If—

''(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

''(B) such program meets the requirements of a qualified State tuition program before the later of—

''(i) the date which is 1 year after such date of enactment, or

''(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.''

## § 529A. Qualified ABLE programs

### (a) General rule

A qualified ABLE program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

### (b) Qualified ABLE program

For purposes of this section—

#### (1) In general

The term ''qualified ABLE program'' means a program established and maintained by a State, or agency or instrumentality thereof—

(A) under which a person may make contributions for a taxable year, for the benefit of an individual who is an eligible individual for such taxable year, to an ABLE account which is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account,

(B) which limits a designated beneficiary to 1 ABLE account for purposes of this section,

(C) which allows for the establishment of an ABLE account only for a designated beneficiary who is a resident of such State or a resident of a contracting State, and

(D) which meets the other requirements of this section.

#### (2) Cash contributions

A program shall not be treated as a qualified ABLE program unless it provides that no contribution will be accepted—

(A) unless it is in cash, or

(B) except in the case of contributions under subsection (c)(1)(C), if such contribution to an ABLE account would result in aggregate contributions from all contributors to the ABLE account for the taxable year exceeding the amount in effect under section 2503(b) for the calendar year in which the taxable year begins.

For purposes of this paragraph, rules similar to the rules of section 408(d)(4) (determined without regard to subparagraph (B) thereof) shall apply.

#### (3) Separate accounting

A program shall not be treated as a qualified ABLE program unless it provides separate accounting for each designated beneficiary.

#### (4) Limited investment direction

A program shall not be treated as a qualified ABLE program unless it provides that any designated beneficiary under such program may, directly or indirectly, direct the investment of any contributions to the program (or any earnings thereon) no more than 2 times in any calendar year.

#### (5) No pledging of interest as security

A program shall not be treated as a qualified ABLE program if it allows any interest in the program or any portion thereof to be used as security for a loan.

#### (6) Prohibition on excess contributions

A program shall not be treated as a qualified ABLE program unless it provides adequate safeguards to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State under section 529(b)(6). For purposes of the preceding sentence, aggregate contributions include contributions under any prior qualified ABLE program of any State or agency or instrumentality thereof.

### (c) Tax treatment

#### (1) Distributions

##### (A) In general

Any distribution under a qualified ABLE program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

##### (B) Distributions for qualified disability expenses

For purposes of this paragraph, if distributions from a qualified ABLE program—

(i) do not exceed the qualified disability expenses of the designated beneficiary, no amount shall be includible in gross income, and

(ii) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

##### (C) Change in designated beneficiaries or programs

###### (i) Rollovers from able accounts

Subparagraph (A) shall not apply to any amount paid or distributed from an ABLE account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another ABLE account for the benefit of the same designated beneficiary or an eligible individual who is a family member of the designated beneficiary.

**(ii) Change in designated beneficiaries**

Any change in the designated beneficiary of an interest in a qualified ABLE program during a taxable year shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is an eligible individual for such taxable year and a member of the family of the former beneficiary.

**(iii) Limitation on certain rollovers**

Clause (i) shall not apply to any transfer if such transfer occurs within 12 months from the date of a previous transfer to any qualified ABLE program for the benefit of the designated beneficiary.

**(D) Operating rules**

For purposes of applying section 72—

(i) except to the extent provided by the Secretary, all distributions during a taxable year shall be treated as one distribution, and

(ii) except to the extent provided by the Secretary, the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

**(2) Gift tax rules**

For purposes of chapters 12 and 13—

**(A) Contributions**

Any contribution to a qualified ABLE program on behalf of any designated beneficiary—

(i) shall be treated as a completed gift to such designated beneficiary which is not a future interest in property, and

(ii) shall not be treated as a qualified transfer under section 2503(e).

**(B) Treatment of distributions**

In no event shall a distribution from an ABLE account to such account's designated beneficiary be treated as a taxable gift.

**(C) Treatment of transfer to new designated beneficiary**

The taxes imposed by chapters 12 and 13 shall not apply to a transfer by reason of a change in the designated beneficiary under subsection (c)(1)(C).

**(3) Additional tax for distributions not used for disability expenses**

**(A) In general**

The tax imposed by this chapter for any taxable year on any taxpayer who receives a distribution from a qualified ABLE program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

**(B) Exception**

Subparagraph (A) shall not apply if the payment or distribution is made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary.

**(C) Contributions returned before certain date**

Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such designated beneficiary's return for such taxable year, and

(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in gross income for the taxable year in which such excess contribution was made.

**(4) Loss of ABLE account treatment**

If an ABLE account is established for a designated beneficiary, no account subsequently established for such beneficiary shall be treated as an ABLE account. The preceding sentence shall not apply in the case of an account established for purposes of a rollover described in paragraph (1)(C)(i) of this section if the transferor account is closed as of the end of the 60th day referred to in paragraph (1)(C)(i).

**(d) Reports**

**(1) In general**

Each officer or employee having control of the qualified ABLE program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, the return of excess contributions, and such other matters as the Secretary may require.

**(2) Certain aggregated information**

For research purposes, the Secretary shall make available to the public reports containing aggregate information, by diagnosis and other relevant characteristics, on contributions and distributions from the qualified ABLE program. In carrying out the preceding sentence an item may not be made available to the public if such item can be associated with, or otherwise identify, directly or indirectly, a particular individual.

**(3) Notice of establishment of able account**

A qualified ABLE program shall submit a notice to the Secretary upon the establishment of an ABLE account. Such notice shall contain the name and State of residence of the designated beneficiary and such other information as the Secretary may require.

**(4) Electronic distribution statements**

For purposes of section 4 of the Achieving a Better Life Experience Act of 2014,[1] States shall submit electronically on a monthly basis to the Commissioner of Social Security, in the manner specified by the Commissioner, state-

[1] See References in Text note below.

ments on relevant distributions and account balances from all ABLE accounts.

**(5) Requirements**

The reports and notices required by paragraphs (1), (2), and (3) shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

**(e) Other definitions and special rules**

For purposes of this section—

**(1) Eligible individual**

An individual is an eligible individual for a taxable year if during such taxable year—

(A) the individual is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained age 26, or

(B) a disability certification with respect to such individual is filed with the Secretary for such taxable year.

**(2) Disability certification**

**(A) In general**

The term ''disability certification'' means, with respect to an individual, a certification to the satisfaction of the Secretary by the individual or the parent or guardian of the individual that—

(i) certifies that—

(I) the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, or is blind (within the meaning of section 1614(a)(2) of the Social Security Act), and

(II) such blindness or disability occurred before the date on which the individual attained age 26, and

(ii) includes a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments, signed by a physician meeting the criteria of section 1861(r)(1) of the Social Security Act.

**(B) Restriction on use of certification**

No inference may be drawn from a disability certification for purposes of establishing eligibility for benefits under title II, XVI, or XIX of the Social Security Act.

**(3) Designated beneficiary**

The term ''designated beneficiary'' in connection with an ABLE account established under a qualified ABLE program means the eligible individual who established an ABLE account and is the owner of such account.

**(4) Member of family**

The term ''member of the family'' means, with respect to any designated beneficiary, an individual who bears a relationship to such beneficiary which is described in subparagraph [2] section 152(d)(2)(B). For purposes of the preceding sentence, a rule similar to the rule of section 152(f)(1)(B) shall apply.

**(5) Qualified disability expenses**

The term ''qualified disability expenses'' means any expenses related to the eligible individual's blindness or disability which are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary under regulations and consistent with the purposes of this section.

**(6) ABLE account**

The term ''ABLE account'' means an account established by an eligible individual, owned by such eligible individual, and maintained under a qualified ABLE program.

**(7) Contracting State**

The term ''contracting State'' means a State without a qualified ABLE program which has entered into a contract with a State with a qualified ABLE program to provide residents of the contracting State access to a qualified ABLE program.

**(f) Transfer to State**

Subject to any outstanding payments due for qualified disability expenses, upon the death of the designated beneficiary, all amounts remaining in the qualified ABLE account not in excess of the amount equal to the total medical assistance paid for the designated beneficiary after the establishment of the account, net of any premiums paid from the account or paid by or on behalf of the beneficiary to a Medicaid Buy-In program under any State Medicaid plan established under title XIX of the Social Security Act, shall be distributed to such State upon filing of a claim for payment by such State. For purposes of this paragraph, the State shall be a creditor of an ABLE account and not a beneficiary. Subsection (c)(3) shall not apply to a distribution under the preceding sentence.

**(g) Regulations**

The Secretary shall prescribe such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section, including regulations—

(1) to enforce the 1 ABLE account per eligible individual limit,

(2) providing for the information required to be presented to open an ABLE account,

(3) to generally define qualified disability expenses,

(4) developed in consultation with the Commissioner of Social Security, relating to disability certifications and determinations of disability, including those conditions deemed to meet the requirements of subsection (e)(1)(B),

(5) to prevent fraud and abuse with respect to amounts claimed as qualified disability expenses,

[2] So in original. The word ''subparagraph'' probably should not appear.

(6) under chapters 11, 12, and 13 of this title, and

(7) to allow for transfers from one ABLE account to another ABLE account.

(Added Pub. L. 113–295, div. B, title I, § 102(a), Dec. 19, 2014, 128 Stat. 4056.)

REFERENCES IN TEXT

The Achieving a Better Life Experience Act of 2014, referred to in subsec. (d)(4), probably means div. B of Pub. L. 113–295, Dec. 19, 2014, 128 Stat. 4056, known as the ''Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014'' and also as the ''Stephen Beck, Jr., ABLE Act of 2014''. No section 4 of the Act was enacted.

The Social Security Act, referred to in subsecs. (e)(1)(A), (2) and (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles II, XVI, and XIX of the Act are classified generally to subchapters II (§ 401 et seq.), XVI (§ 1381 et seq.), and XIX (§ 1396 et seq.) respectively, of chapter 7 of Title 42, The Public Health and Welfare. Sections 1614 and 1861 of the Act are classified to sections 1382c and 1395x, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2014, see section 102(f)(1) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 552a of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 113–295, div. B, title I, § 102(f)(2), Dec. 19, 2014, 128 Stat. 4062, provided that: ''The Secretary of the Treasury (or the Secretary's designee) shall promulgate the regulations or other guidance required under section 529A(g) of the Internal Revenue Code of 1986, as added by subsection (a), not later than 6 months after the date of the enactment of this Act [Dec. 19, 2014].''

PURPOSES

Pub. L. 113–295, div. B, title I, § 101, Dec. 19, 2014, 128 Stat. 4056, provided that: ''The purposes of this title [title I of div. B of Pub. L. 113–295, enacting this section, amending sections 26, 529, 877A, 4965, 4973, and 6693, of this title, section 552a of Title 5, Government Organization and Employees, sections 521, 541, and 707 of Title 11, Bankruptcy, and section 5517 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section, section 529 of this title, section 552a of Title 5, and section 521 of Title 11] are as follows:

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

''(2) To provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], the supplemental security income program under title XVI of such Act [42 U.S.C. 1381 et seq.], the beneficiary's employment, and other sources.''

TREATMENT OF ABLE ACCOUNTS UNDER CERTAIN FEDERAL PROGRAMS

Pub. L. 113–295, div. B, title I, § 103, Dec. 19, 2014, 128 Stat. 4063, provided that:

''(a) ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN OTHER MEANS-TESTED FEDERAL PROGRAMS.—Notwithstanding any other provision of Federal law that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in the ABLE account (within the meaning of section 529A of the Internal Revenue Code of 1986) of such individual, any contributions to the ABLE account of the individual, and any distribution for qualified disability expenses (as defined in subsection (e)(5) of such section) shall be disregarded for such purpose with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such ABLE account, except that, in the case of the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.]—

''(1) a distribution for housing expenses (within the meaning of such subsection) shall not be so disregarded, and

''(2) in the case of such program, any amount (including such earnings) in such ABLE account shall be considered a resource of the designated beneficiary to the extent that such amount exceeds $100,000.

''(b) SUSPENSION OF SSI BENEFITS DURING PERIODS OF EXCESSIVE ACCOUNT FUNDS.—

''(1) IN GENERAL.—The benefits of an individual under the supplemental security income program under title XVI of the Social Security Act shall not be terminated, but shall be suspended, by reason of excess resources of the individual attributable to an amount in the ABLE account (within the meaning of section 529A of the Internal Revenue Code of 1986) of the individual not disregarded under subsection (a) of this section.

''(2) NO IMPACT ON MEDICAID ELIGIBILITY.—An individual who would be receiving payment of such supplemental security income benefits but for the application of paragraph (1) shall be treated for purposes of title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] as if the individual continued to be receiving payment of such benefits.

''(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Dec. 19, 2014].''

## § 530. Coverdell education savings accounts

### (a) General rule

A Coverdell education savings account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the Coverdell education savings account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

### (b) Definitions and special rules

For purposes of this section—

#### (1) Coverdell education savings account

The term ''Coverdell education savings account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of an individual who is the designated beneficiary of the trust (and designated as a Coverdell education savings account at the time created or organized), but only if the written governing instrument creating the trust meets the following requirements:

(A) No contribution will be accepted—

(i) unless it is in cash,

(ii) after the date on which such beneficiary attains age 18, or

(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding $2,000.

(B) The trustee is a bank (as defined in section 408(n)) or another person who dem-