DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

December 13, 2023

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CC:EEE:EOET:EO
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Attention:

Dear

This letter responds to your request for information dated October 20, 2022, involving section 529A of the Internal Revenue Code. It also addresses a change made to section 529A by Pub. L. 117-328, 136 Stat. 3559 (2022) (SECURE 2.0 Act), enacted on December 29, 2022.

Section 529A provides rules under which States or State agencies or instrumentalities may establish and maintain a Federal tax-favored savings program for eligible individuals with blindness or disability who are the owners and designated beneficiaries of accounts to which contributions may be made to meet qualified disability expenses. Section 124 of the Secure 2.0 Act increases the age by which any blindness or disability must occur for an individual to be an eligible individual by reason of such blindness or disability for an ABLE program from 26 to 46. The change is effective for taxable years beginning after December 31, 2025.

In your letter, you requested information about ABLE contribution limits. On November 19, 2020, final regulations providing guidance under section 529A were published. See 26 CFR § 1.529A (2020). The regulations provide that any person may make contributions to an ABLE account, subject to annual and aggregate contribution limits. Treas. Reg. § 1.529A-2(g)(2)(i) provides that the total amount of contributions to an ABLE account during the designated beneficiary's taxable year (excluding rollovers and program-to-program transfers) cannot exceed the section 2503(b) gift tax annual exclusion amount. Treas. Reg. § 1.529A-2(g)(2)(ii) allows employed designated beneficiaries who have not had contributions made for them in the taxable year to certain types of employer-sponsored plans to contribute an additional amount to their ABLE account up to the lesser of the employed designated beneficiary's compensation for that taxable year or the poverty line amount for a one-person household for the calendar year preceding the calendar year in which the taxable year began, determined using the poverty guideline applicable in the state of the designated beneficiary's residence.

The regulations provide that a qualified ABLE program satisfies the aggregate contribution limit requirement if it refuses to accept any additional contribution to an ABLE account once the balance in the account reaches that limit. Treas. Reg. § 1.529A-2(g)(4) provides that a qualified ABLE program must return any excess contribution, excess compensation contribution, or excess aggregate contribution deposited into an ABLE account, including all net income attributable to that contribution, to the person or persons who made that contribution on a last-in-first-out basis until the entire excess, along with all net income attributable to such excess, has been returned. Once the account balance falls below the aggregate contribution limit, additional contributions again may be accepted up to the aggregate contribution limit. In your letter, you asked whether there is a "lifetime ABLE contribution limit." There is no lifetime contribution limit.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2023-1, § 2.04, 2023-1 IRB 1 (Jan. 3, 2023). If you have any additional questions, please contact our office at .

Sincerely,

Taina Edlund
Senior Technician Reviewer
(CC:EEE:EOET:EO)