



STABLE Account or Special Needs Trust?



Presentation Outline

- Overview
- What is a Special Needs Trust?
- What is a STABLE Account?
- Which is the right choice?

Overview of First-Party Asset Protection Options

- Will discuss options for what to do when a disabled individual has or receives assets that jeopardize eligibility for benefits.
- Assumption is that assets either belong to the individual with disabilities or the individual is already legally entitled to them.
- If assets *other than* the individual's are to be used for their benefit, there are better methods to accomplish that than are discussed here.





Terms and Acronyms

- Trust: A legal arrangement where one person (the Settlor) appoints someone (the Trustee) to hold and manage property for the benefit of another (the Beneficiary).
- SSI: Supplemental Security Income; means-tested monthly cash assistance for individuals with disabilities
- Medicaid: Means-tested health insurance coverage for low-income and (some) disabled individuals
- Special Needs Trust (SNT): A Trust for the benefit of an individual with disabilities. Assets in an SNT are not counted as a resource for SSI or Medicaid if the terms of that Trust comply with the rules established by Social Security/Medicaid.
- Pooled Trust: A type of SNT that is managed by a non-profit organization for the benefit of a person with disabilities.
- STABLE Account: A type of savings/investment account that is an exempt account under the ABLE Act.



Special Needs Trusts



Types of Special Needs Trusts

First-Party Special Needs Trusts

- Funded with assets of the disabled individual

Third-Party Special Needs Trusts

- Funded with assets owned by 3rd party

Pooled Trust

- Funded with assets of the disabled individual
- Some pooled trusts offer an additional pooled trust that's funded with 3rd party funds

First-Party Special Needs Trusts

- Established by
 - parent
 - grandparent
 - guardian
 - court
 - disabled individual
- Funded with the assets of the disabled individual.
- Trustee uses trust assets for the benefit of the disabled individual, with some restrictions.
- Trust must provide that Medicaid is repaid upon the death of the disabled individual.
- Well-established planning tool that protects eligibility for public programs



Special Needs Trust Roles

Beneficiary Requirements

- Individual must be determined disabled by the Social Security Administration
- Trust must be established prior to age 65
- Assets can only be added to the trust while the individual is under age 65
- Assets held in Trust continue to be exempt after the individual reaches age 65, but any additional contributions are penalized by SSI and/or Medicaid

Trustee

- Chosen by the creator of the Trust; Cannot be the disabled individual
- Manages the assets (investments, purchase/sale of property, filing of taxes, etc.)
- May have reporting requirements to Social Security and/or to the Probate Court
- Can employ advisors, attorneys, and other professionals to assist and pay for services using trust assets

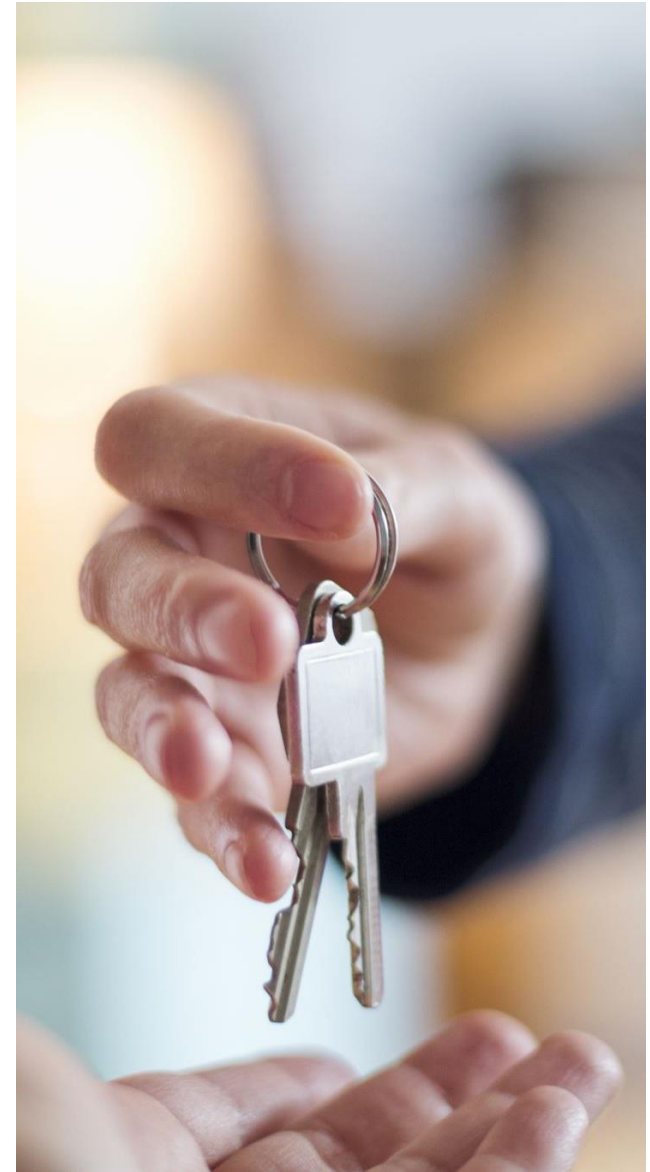
Trust Property and Limitations

Trust Property

- Trust can hold any type of property that an individual could own. This includes real estate, life insurance, securities, bank accounts, vehicles, etc.
- Trust can also have beneficiary's income assigned to it, if income source permits assignment.
- Trust has a separate Tax ID number, but typically is structured so that trust income is included in beneficiary's tax return (results in a more favorable tax treatment)
- Trust assets can be used only for the benefit of the beneficiary (i.e. cannot purchase gifts for the beneficiary to give others, or used to assist another that the beneficiary wants to help, etc.)

Limitations

- Distributions from the Trust directly to the individual are counted as unearned income by SSI and Medicaid
- Purchases by the Trust for items or services for the beneficiary are not counted as income, EXCEPT:
- Purchases of basic food and shelter are considered 'in-kind' support and maintenance by SSI and (sometimes) Medicaid



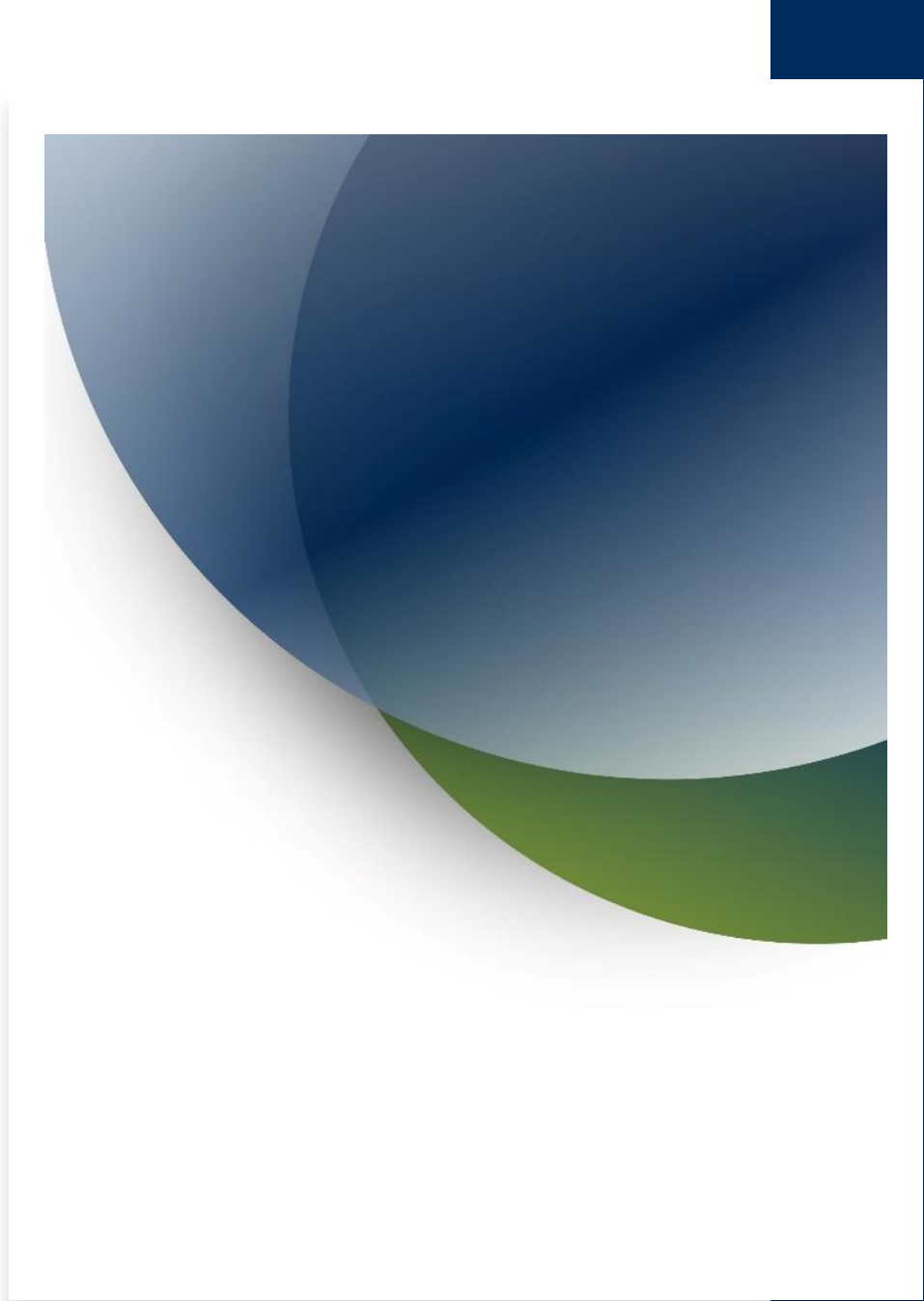
Pooled Trusts

- A special type of Special Needs Trust; the funds of many individuals with disabilities are 'pooled' together and managed by a large investment bank or firm.
- Each individual beneficiary has a separate account ledger that is available to make distributions for their benefit
- A non-profit organization handles the requests for distribution and day-to-day operation of the trust
- Typically restricted to being funded with liquid (cash) assets; no real estate, securities, or other property types
- Some states (including Ohio!) permit individuals over age 65 to establish and fund Pooled Trusts without being penalized by Medicaid; individuals over age 65 are still penalized under SSI rules.





STABLE Accounts



STABLE Accounts

- Ohio's implementation of the 2014 ABLE Act, a federal law that expanded the financial planning options for individuals with disabilities
- A STABLE account is similar to a 529 College Savings Account or 401(k) account. The funds are invested and grow tax-free. Distributions from the fund for approved expenses are not taxed as income to the individual.
- A maximum of \$17,000 can be added to the STABLE account each year (this amount is adjusted annually).
- The account can have up to \$100,000 for SSI recipients.
- Can have a maximum balance of \$517,000.



Eligibility

Blind or disabled before reaching age 26

AND

Receiving Social Security benefits based on a disability

OR

Condition listed on SSA's "List of Compassionate Allowances Conditions"

OR

Otherwise meeting the Social Security disability test (Self-Certification)



Self Certification

Must have a diagnosis of a physical or mental impairment that results in 'marked and severe' functional limitations

Impairment must have lasted or be expected to last for longer than 1 year

Providing the written diagnosis is not required when opening the account, but can be asked to provide if questioned

Test is easier to meet than the test for adult disability (unable to engage in substantial gainful activity)





Opening a STABLE Account

Accounts can be opened by first person listed who is both willing and able, including:

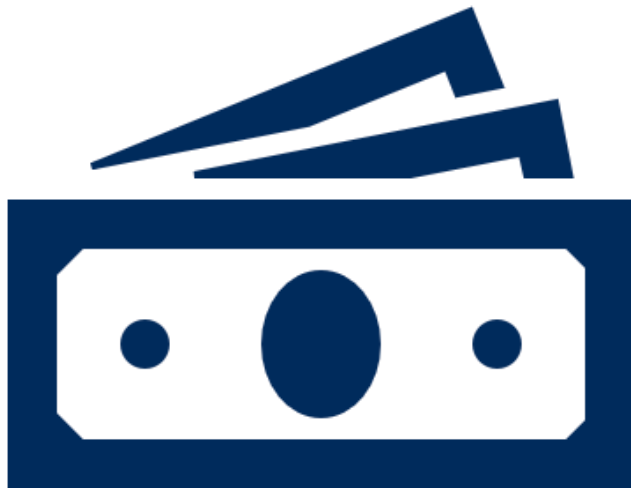
- Disabled individual
- POA
- Guardian
- Spouse
- Parent
- Sibling
- Grandparent
- SS Rep Payee

Contributions to a STABLE Account

- Any “Person” can contribute (individual, trust, estate, etc.)
- Maximum of \$17,000.00 per year from all sources
- Individual can contribute an additional \$13,590 if they are working
- Account beneficiary can be switched to a sibling who is also disabled
- Account can receive rollovers from another family member’s STABLE account (but not a standard 529 account)
- Maximum account value is \$517,000.



Impact on Public Benefits and Expenses



Impact on SSI and Medicaid

- SSI eligibility suspended if account exceeds \$100,000
- Other benefits unaffected
- Medicaid payback upon death of the beneficiary

Allowable Use of Funds (Qualified Disability Expenses)

- Related to the beneficiary's disability
- For the benefit of the beneficiary
- Used to maintain or improve the beneficiary's health, independence, or quality of life

A photograph of a woman and a young girl laughing together outdoors. The woman is in the foreground, smiling and looking towards the girl. The girl is in the background, laughing heartily with her mouth open. The background is a soft-focus outdoor setting with greenery and sunlight filtering through the trees.

Qualified Disability Expenses

- Education
- Housing
- Transportation
- Employment training and support
- Assistive technology and related services
- Health and wellness
- Financial management and administrative services
- Legal fees
- Expenses for ABLE account oversight and monitoring
- Funeral and burial; and
- Basic living expenses



STABLE Account or Special Needs Trust?





Using a SNT and STABLE Account Together

Special Needs Trust

- Holds majority of assets
- Owns non-cash property (house)
- Managed by Trustee for Beneficiary
- Makes periodic distributions to the STABLE Account

STABLE Account

- Direct access by beneficiary
- Can be used at beneficiary's discretion
- Can be used to pay for food and shelter, avoiding penalty for individual receiving in-kind support directly from Trust

STABLE Account and SNT Comparison

	STABLE Account	Private SNT	Pooled Trust
Created by	Individual, their representative, or a family member	Individual, parent, grandparent, guardian, or court	Individual, parent, grandparent, guardian, or court
Funded with	Cash from any source	Individual's property of any type	Individual's own funds; must be cash
Controlled by	Individual, or their agent/guardian	Trustee appointed by creator of trust (or successor as provided in trust document)	Non-profit organization (a designated advocate communicates on behalf of beneficiary)
Eligibility	Disability prior to age 26	Disability prior to age 65	Meet criteria for disability at any age (Ohio only)
Contribution Limits	\$17,000.00/year \$517,000.00/max	No limit	No limit
Distribution Limits	Qualified Disability Expenses	Trustee's discretion; Food and shelter could cause problems for SSI or Medicaid	Distributions subject to approval by non-profit organization

Advantages of STABLE Accounts and SNTs

STABLE Account

- Saving individual's unspent SSI or earnings
- Receipt of small lump sums (inheritance, settlement, etc.)
- Child support payments

Private SNT

- Receipt of large inheritance or settlement
- To hold property other than cash (housing, etc.)
- Direct recurring income streams (structured settlements, annuities, etc.)

Pooled Trust

- Smaller lump sums if disabled after age 26
- If amount is not enough to justify bank as trustee but no family member or other person is able to serve
- If individual is over age 65 and receiving Medicaid



STABLE Accounts: Pros and Cons

STABLE Account: Pros

- Easy set up
- Simple administration
- Wide range of allowable uses
- Individual can have direct access

STABLE Account: Cons

- Only available for individuals disabled prior to age 26
- Limited in annual contributions
- Can only hold cash/liquid assets
- Cannot have income assigned to it



Special Needs Trusts: Pros and Cons

Special Needs Trust: Pros

- Can hold any amount of property, of any type
- Can exempt (some) income sources in addition to assets
- Allows for large amounts of assets to be managed for beneficiary by someone who knows them personally

Special Needs Trust: Cons

- Complex and expensive – attorneys, courts, professional trustees
- Only justified when assets are substantial
- Limited applicability to older individuals with disabilities who need long-term care



Pooled Trusts: Pros and Cons

Pooled Trust: Pros

- No limit on amount of funds
- Can be created for individuals of any age
- Less expensive: non-profit handles administration

Pooled Trust: Cons

- Can only hold cash
- Distributions subject to approval, which sometimes takes weeks
- No personal relationship between individual and who manages their funds.

Thank
You

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