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| CHARACTERISTIC | ABLE ACCOUNT | FIRST PARTY SPECIAL NEEDS TRUST – Person’s Money  | THIRD PARTY SUPPLEMENTAL NEEDS TRUST  |
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| What is excluded as a resource | Money in account is excluded as a resource up to $100,000 for purposes of SSI eligibility  | All money and assets are excluded as a resource for SSI and Medicaid eligibility | All money and assets are excluded as a resource for SSI and Medicaid eligibility  |
|  |  |  |  |
| Age of person with a disability to be eligible to open  | Person’s disability must have occurred before the age of 26 | Any age up to age 65; 65 and older may be possible to open an account in a pooled special needs trust | No age limit |
|  |  |  |  |
| How much can be contributed annually  | Annual contributions up to gift tax exemption - $17,000 in 2023; may be able to contribute an additional $13,590 if working and no employer sponsored retirement account  | No limit  | No limit |
|  |  |  |  |
| Tax treatment of any investment gain  | Return or gain on funds because of investment grow tax free as long as distributions are made for qualified disability expenses | Return or gain on funds in the trust would possibly have a tax liability | Return or gain on funds in the trust would possibly have a tax liability  |
|  |  |  |  |
| What can funds be used for  | Funds are to be used for qualified disability expenses | Use of funds is not limited to qualified disability expenses  | Use of funds is not limited to qualified disability expenses |
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| Who can contribute funds or other assets  | Funds can be contributed by the person with a disability and anyone else  | Only money or other resources in belonging to the person with a disability  | Only money or other resources of anyone else other than the person with a disability  |
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| Who can access funds or resources | Person or authorized legal representative can access directly  | Person or their representative has to request from the Trustee | Person or their representative has to request from the Trustee  |
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| CHARACTERISTIC | ABLE ACCOUNT | FIRST PARTY SPECIAL NEEDS TRUST | THIRD PARTY SUPPLEMENTAL NEEDS TRUST  |
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| What can be contributed  | Only cash can be contributed | Cash or tangible personal property e.g., a house, or investment products  | Cash, tangible personal property (e.g., a house), investment products, beneficiary of life insurance policy, portion of a family member’s estate  |
|  |  |  |  |
| Who is responsible for documentation for IRS accounting | Person or their legal representative responsible for maintaining receipts to verify distributions were for qualified disability expenses | Trustee responsible for documentation | Trustee responsible for documentation  |
|  |  |  |  |
| Medicaid Estate Recovery upon the beneficiary’s death  | SB 160 passed in 2023 General Assembly and signed by Governor Beshear eliminated Medicaid estate recovery for STABLE Kentucky (KY’s ABLE Program) accounts  | Medicaid estate recovery can pre-date establishment of Trust; funds may be able to remain in a pooled special needs trust  | No Medicaid estate recovery; Whoever established the Trust determines where any remainder goes  |