



## Comparing ABLE to Special Need and Pooled Trusts

Question	ABLE Account (529A)	Third Party Special Needs Trust	First Party Special Needs Trust (d4a) (Self-Settled)	First Party Pooled Trust (d4c) (Self-Settled)
Who can utilize?	Only person with onset of a disability prior to age 26	Any person with a disability	Any person with a disability – trust must be created before the individual turned 65	Any person with a disability – no age restriction
Whose funds?	Anyone, including person with a disability	Anyone, EXCEPT the person with a disability (usually funded by parent or grandparent)	The person with a disability	The person with a disability
How many can one person have?	One	Unlimited	Unlimited	Unlimited
Who can control/create?	Person with a disability or Authorized Legal Representative (parent, conservator ( <i>guardian if less than \$2,000</i> ), or power of attorney)	Anyone, except the person with a disability or their spouse	Anyone (As of 12/31/16, can be established by the person with the disability in addition to the parent, grandparent, legal guardian or by the court)	Pooled trust organization as trustee - nonprofit
Who inherits on death of person with disability?	No 529A claim to be filed in WV, however, may be included in the WV estate recovery for recipients, age 55 and older, whose nursing and community based services were paid by Medicaid	Whoever is named in the trust – usually the heirs of the parent or grandparent	Medicaid payback then as directed, but pooled trust may retain a portion	Medicaid payback; then whoever is named in trust document, but pooled trust may retain a portion
How much can be added in one year and NOT lose Medicaid or SSI eligibility?	\$15,000 or up to \$27,060 if employed	Unlimited	Unlimited	Unlimited
Is funding gift-tax free?	Yes	No	Yes	Yes



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Question	ABLE Account (529A)	Third Party SNT	First Party SNT (d4A) (Self-Settled)	First Party Pooled Trust (d4c) (Self-Settled)
Is there a cap on how much can be in account and NOT lose Medicaid or SSI eligibility?	Yes, currently \$462,000 in WV  \$100,000 until SSI is suspended	No	No	No
How is income taxed?	No income tax if used for qualified expenses	Taxed as a non-grantor trust at highest marginal tax rate	Taxed as grantor trust – beneficiary pays income tax	Taxed to beneficiary as grantor trust
Fees	Minimal cost to establish and maintain	Must be prepared by attorney; ongoing fees depend upon whether trustee is professional or family member	Must be prepared by attorney; ongoing fees depend upon whether trustee is professional or family member	\$250 to \$1,500 to establish (no attorney needed, but advisable); annual fees 2% to 4% - This can vary by state
Pay for food and shelter for SSI recipient without impacting benefits?	Yes	No	No	No
Exempt from creditor claims	Yes	Yes	Maybe Not	Maybe Not
Allows for some disbursement after death	Yes	Yes	No	No
Distribution standard broader than just sole benefit of the beneficiary	Yes	Yes	No	No

**Disclaimer:** This document is only intended to provide a high level comparison of an ABLE account to Special Need and Pooled Trusts and may contain some inaccuracies. This document is not intended to provide any legal or financial advice. Before making any financial decisions, you should first consult a tax professional, financial planner and/or attorney.