Schenck Price Smith & King, LLP
Attorneys at Law
~ Founded 1912 ~

CLIENT ALERT

January 6, 2015

The ABLE Act:
Another Arrow in the Quiver for Certain Individuals with Disabilities

By: Shirley B. Whitenack, Esq.

President Barack Obama signed the Achieving a Better Life Experience, or ABLE, Act on December 19, 2014 as part of the Tax Increase Prevention Act of 2014. The new law will allow qualified individuals with disabilities to have tax-free savings accounts in which they can save up to $100,000 without jeopardizing eligibility for Supplemental Security Income (SSI) and other means-tested government programs such as Medicaid.

Modeled on 529 college savings plans, interest earned on savings will be income tax-free. Contributions to the account, however, will not be tax-deductible. The funds in the accounts can be used to pay for education, health care, transportation, housing and certain other expenses.

To be eligible, individuals must have a disability that occurred before age 26. Each individual may establish only one ABLE account. Annual contributions are capped at the federal annual gift tax exclusion ($14,000 in 2015). Funds remaining in the account when the account beneficiary dies must first be used to repay Medicaid for expenses it incurred on behalf of the beneficiary.

In 2015, states will have the option to offer such plans to people with disabilities. States will have to adopt regulations, however, before financial institutions can offer such plans.

The law’s name recently was amended to honor Stephen Beck, Jr., a longtime proponent of the legislation who died in early December.

While the Act offers another tool that can be used in planning for the special needs of certain individuals, the establishment of first and third party special needs trusts should be considered when the contributions will exceed the amounts allowed under the Act or when third parties do not want their assets to be subject to a Medicaid payback requirement.

This Alert is meant simply to give you some highlights of the ABLE Act. If you have any questions, please contact any member of Schenck, Price Smith & King's Elder and Special Needs Law Practice Group: Shirley B. Whitenack, Gary Mazart, Meredith L. Grocott, Regina M. Spielberg and Crystal West Edwards.