

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1684

Bill Subtitle: TO AMEND THE LAW CONCERNING CONTRIBUTIONS TO AN ABLE ACCOUNT UNDER THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT.

Basic Change :

Sponsors: Rep. J. Mayberry and Sen. M. Johnson

Act 1238 of 2015 created the Achieving a Better Life Experience (ABLE) Program. A taxpayer is entitled to a tax deduction for qualifying contributions made to a disability savings account established under the ABLE program.

Under current law, nonqualified distributions from a disability savings account established under the ABLE program are subject to state income tax by the party that makes the nonqualified withdrawal. The taxpayer's deduction is subject to recapture if the taxpayer takes a nonqualified distribution, but not if the beneficiary takes a nonqualified distribution.

HB1684 provides that only the earnings portion of a nonqualified distribution is subject to income tax by the designated beneficiary of the savings account. Earnings included in a refund are subject to income tax.

Under current law, a taxpayer may deduct contributions to a disability savings account up to a maximum of \$5,000 in a tax year. HB1684 also enables a taxpayer to carry forward contributions to an account in excess of \$5,000 for four consecutive tax years following the tax year in which the taxpayer made the contribution. The bill also allows a state employee to make tax-deferred contributions from the employee's salary to an ABLE account.

Revenue Impact :

FY2022 – General Revenue reduction of up to \$7,650 to \$25,424

Taxpayer Impact :

HB1684 would allow a taxpayer to carry forward excess contributions to an ABLE account for up to four years. HB1684 would also allow a state employee to make contributions into an ABLE account from his or her salary before the payroll deposit.

Resources Required :

Computer programs, tax forms, and instructions will need to be updated.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Department employees will need to be educated as well as the tax community.

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Other Comments :

HB1684 does not provide an effective date for the tax years that would be affected by this bill. ABLE contributions became deductible in 2019. Without an effective date, it would be unclear if the bill would be intended to apply to the 2020 tax year or only to 2021 and following tax years.

Legal Analysis :

Under current law, if the taxpayer or the designated beneficiary take a nonqualified distribution, then the party who took the nonqualified distribution is responsible for income tax on the distribution. Under HB1684, if the taxpayer takes a nonqualified distribution, the taxpayer's deduction will still be subject to recapture, and any earnings on the nonqualified distribution will be taxable to the beneficiary. If the designated beneficiary takes a nonqualified distribution, however, the designated beneficiary will only be responsible for income tax on the contribution's earnings, and the taxpayer's deduction will not be subject to recapture.