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The Benefits of 529 College Savings Plans in Estate and Tax Planning

The price of higher education, college and graduate school, is astronomical. Many families try to start saving when the child is young. 529 College Savings Plans provide an effective strategy to save for future costs during the child's formative years while affording tax and other benefits.

Here's How It Works: A 529 plan can be set up by anyone, a parent, grandparent, aunt, uncle, even a friend, to benefit any beneficiary. You can even establish one for yourself. Once established, the account can be used to pay for education expenses at eligible 2 or 4 year colleges, vocational and technical schools, or graduate schools. Any qualified higher education expense: tuition, mandatory fees, books, supplies, and equipment required for enrollment or attendance, can be paid from a beneficiary's account. Certain expenses for room-and-board if the beneficiary is enrolled for at least half of the academic period and certain expenses for special needs students can be paid from a 529 plan. The Contributor of the plan maintains control over the account, makes decisions regarding withdrawal of funds, and can even change the designated beneficiary. Under most plans, the Contributor can revoke the account at any time, however, all non-qualified withdrawals would be subject to income tax and a penalty. Management fees for the accounts are very low.

The Advantages: There are many federal and state tax benefits of implementing a 529 plan. Earnings grow federally tax deferred and, as long as distributions are made for qualified education expenses, there is no federal tax on the distributions. Contributions to a 529 plan qualify for the federal annual gift tax exclusion, currently $14,000.00 for a single individual and $28,000.00 for a married couple filing jointly. Contributors have the option of depositing five years worth of gifts for a single beneficiary at once, meaning single individuals can contribute up to $70,000.00 per beneficiary and married couples filing jointly can contribute $140,000.00 per beneficiary without incurring any federal gift tax, as long as the contributor does not make any additional gifts to that beneficiary for the next five years. In New York, when filing a state income tax return, a single individual can deduct up to $5,000.00 from taxable income, and married couples filing jointly can deduct up to $10,000.00, for contributions to a 529 plan account!

Estate Planning Considerations: On the positive side, since contributions to a 529 plan are considered completed gifts, assets put into a 529 plan are not considered part of the Contributor's estate for estate tax purposes. On the other hand, since a Contributor maintains control of the account at all times and can revoke it at any time, a 529 account is considered an available resource for purposes of determining the Contributor's Medicaid eligibility. Furthermore, because a 529 Plan is an available resource, in the event that a Contributor changes ownership of a 529 account, the state would consider this a transfer resulting in an ineligibility period for Medicaid purposes. For this reason, a grandparent might choose to implement an irrevocable trust for the beneficiary and make the contribution to the trust. The Trustee would then establish and fund the 529 account and designate the Trust beneficiary as the beneficiary of the 529 account.

A 529 plan is a great way to save for a loved one's educational expenses. The implementation of such a plan may have an unintended impact on one's estate and tax planning. Thus, for example, if a Contributor has made a five-year contribution but does not survive the period, a percentage of the gift will be included in his taxable estate. We would be more than happy to talk with you about whether the implementation of a 529 Plan would be an appropriate fit for your estate and tax planning needs.