

WINTER 2012

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529 plans offer flexibility in uncertain times

If there's one thing everyone desires in today's uncertain economy, it's flexibility. The 529 plan — one of the mainstays of college funding over the past decade or so — provides flexibility in a variety of ways.

Here's the plan

529 plans provide a way to help you fund a loved one's college education. They come in two varieties.

One is the *college savings plan*, which allows you to save for higher education costs in a tax-advantaged way. You can use plan funds for qualifying expenses such as tuition, mandatory fees, books, equipment, supplies and many room and board costs. The other

variety is the *prepaid tuition plan*, which locks in future tuition at today's prices.

The college savings plan tends to be preferable from a flexibility standpoint, in part because it doesn't come with the residency requirements that apply to many prepaid tuition plans. In addition, it avoids the uncertainties that may arise regarding prepaid tuition plan benefits if the beneficiary ends up attending a school different from the one named in the plan.

College savings plans also provide flexibility in investment options and allow for tax-free growth. Further, you may withdraw funds more easily than with a prepaid tuition plan. College savings plan

withdrawals will be tax-free, so long as they're used for qualified college education expenses. If funds are withdrawn for a nonqualifying purpose, the earnings will be subject to income tax plus a 10% penalty.

If you wish to transfer your college savings plan balance to another plan, it's usually easy to do so (though you can make a transfer only once every 12 months). On the other hand, prepaid tuition plans aren't designed to be transferred from one plan to another. If the beneficiary ends up attending college somewhere else, however, there are mechanisms for redeeming the value of the prepaid tuition.

College savings plans and prepaid tuition plans both offer another flexible feature: You may change beneficiaries easily and without tax implications, as long as the new beneficiary is a qualifying "family member." This may be beneficial if, for



529 plans offer estate planning opportunities

The benefits of 529 plans aren't limited to education funding; they extend to estate planning as well. For example, gifts to 529 plans are generally eligible for the \$13,000 per year per beneficiary gift tax annual exclusion.

A long-standing opportunity available only for 529 plans has been to accelerate five years' worth of annual exclusion gifts into a 529 plan, allowing for a sizable \$65,000 contribution (or \$130,000 if you split the gift with your spouse). The gifts reduce your taxable estate without using up any of your lifetime gift or estate tax exemption.

If you're contributing to a 529 plan for the benefit of a grandchild, annual exclusion gifts are also excluded from generation-skipping-transfer (GST) tax — without using up any of your lifetime GST tax exemption. The GST tax generally applies, in addition to any applicable gift or estate tax, to transfers benefiting people two or more generations below you.



instance, one sibling gets a scholarship or otherwise doesn't need to use his or her 529 plan money.

Other benefits

Another potential tax benefit is the ability to get a state income tax deduction or credit by making contributions. Typically this applies only to contributions to your home state's plan. But it may be possible to get a benefit for a contribution to the plan of a state in which you don't live, yet where you're liable for paying tax.

529 plans have more to offer than just flexibility and tax benefits; they also offer substantial contribution limits. In 2012, most states allow you to contribute between \$200,000 and \$300,000 to a plan. That's a hearty amount of cash and deservedly so, considering how high tuition is projected to be decades hence.

Underwater trouble

529 plans come with risks as well. Although the prepaid tuition plan is akin to a CD or other guaranteed return account, college savings plan assets can be invested in a wide range of choices and,

as a result, can be significantly riskier. (Investment fees may cut into returns as well.)

In fact, an issue with 529 plans of late is the emergence of "underwater" plans, which arise when a plan's current value is less than the amount that has been contributed to it. Many underwater 529 plans will likely recover eventually. So if the funds won't be needed for several years, staying put may be your best option.

“529 plans have more to offer than just flexibility and tax benefits; they also offer substantial contribution limits.”

But, if the money is needed right away or you're prepared to abandon the account, a viable strategy may be to simply withdraw the funds and shut down the plan. If you do so, you can likely claim the loss as a miscellaneous itemized deduction.

What's more, you probably won't face taxes or penalties, regardless of how the money is ultimately spent, because you're not withdrawing *earnings*. The loss deduction may even help you recover and start your college funding efforts anew.

Still worthwhile

Certainly, 529s have been subject to the same bumpy ride that so many investment vehicles have had to endure in recent years. But, thanks in part to their flexibility, these plans are still worth considering when looking to fund a college education. ♦

Is your company headed for trouble with its travel expenses?

Thanks to videoconferencing technology and high gas prices, business travel may not be as common as it used to be. Yet it goes on nonetheless, and companies can't slack off on the proper tracking and reporting of travel expenses. The IRS, as always, is watching.

Home, tax home

Generally, deductible out-of-town travel expenses are an employee's ordinary and necessary expenses of traveling away from home for work. "Away from home" means his or her job duties require the employee to be away from the general area of his or her "tax home" substantially longer than an ordinary day's work, and the employee needs to sleep or rest to meet the work demands while away from home.

For most people, their tax home is their regular place of business. But there are special rules for employees who work in multiple places, are on the road most of the time or are on a temporary or indefinite job assignment away from their regular place of business.

An employee doesn't necessarily have to stay away from home overnight to satisfy the rest requirement.

If he or she travels for business purposes throughout the day but returns home that night to sleep, the worker may still be considered "away from home" for tax purposes.

Last year, the IRS announced that it would even allow deductions for local lodging expenses if the lodging is temporary and necessary for an employee to participate in or be available for a bona fide business meeting or function. In addition, the expenses involved must be otherwise deductible by the employee as a business expense (or be expenses that would otherwise be deductible if paid by the employee).

Reasonable write-offs

Generally airfare, taxis, rental cars, lodging, meals (subject to the



limitations discussed below), business phone calls and tips are tax-deductible. You can't write off "lavish or extravagant" travel expenses, so be prepared to prove that any patronage of a high end restaurant or hotel was reasonable under the circumstances.

Generally only 50% of business-related meal or entertainment expenses are deductible. If the employer reimburses the employee under an accountable plan (more on this under "Accountable vs. nonaccountable," below), the 50% limit will apply to the employer rather than the employee.

Deductions for lodging — and for other travel expenses greater than \$75 — generally must be substantiated with adequate records, such as credit card receipts, canceled checks or bills. Records should indicate the amount, date, place, essential character of the expense and business purpose.

Accountable vs. nonaccountable

For companies that reimburse their employees' travel expenses, there are tax advantages to having an accountable plan. If you satisfy the requirements, reimbursed travel expenses

are deductible by the company, excluded from employees' income and exempt from FICA and other payroll taxes.

If your plan is nonaccountable, the company still gets a tax deduction, but reimbursed expenses will be subject to payroll taxes and included in employees' income as salary.

Employees may then be able to deduct some or all of the expenses, but only if they itemize and only to the extent the expenses and other "miscellaneous itemized deductions" exceed 2% of their adjusted gross income.

“You can't write off 'lavish or extravagant' travel expenses, so be prepared to prove that patronage of a high end restaurant or hotel was reasonable.”

A variety of factors establish whether a plan is accountable. Reimbursed expenses must have a business connection — that is, the employee must have paid or incurred deductible expenses while performing his or her job.

In addition, workers need to adequately account to the company for these expenses within a reasonable time, usually within 60 days after the expenses are paid or incurred. And employees must return any excess reimbursements or advances within a reasonable time, usually within 120 days after the expenses are paid or incurred.

Boots on the ground

Most companies need to put "boots on the ground" in other locales throughout the year. Make sure the business and your employees are following the rules that bring tax benefits, not unwanted IRS attention. ♦



Reviewing your personal banking needs

We've all heard the story of the eccentric neighbor who refuses to open a bank account, preferring instead to store his or her money in shoeboxes under the bed. Such a person may exist, but he or she is in rare company.

Today millions of people use banking services of one kind or another. If you count yourself as one of them, it's a good idea to occasionally review your personal banking needs to see whether you can discover some ways to better manage your money.

Online vs. old school

Perhaps the biggest change in banking over the last decade or so has been the mass migration from brick and mortar banks to online banking. In fact, someone in their 20s might consider standing in line to make a deposit with a teller about as antiquated as putting money in a shoebox.

But that doesn't mean you should entirely abandon your "real" bank for a virtual one. If you're still able to conveniently get there and you're comfortable with its staff, you may be better served staying offline and avoiding the learning curve of a transition to online banking.

Then again, if you're at or nearing retirement and planning to do a substantial amount of traveling soon, or you anticipate that health concerns may limit your mobility, now may be the perfect time to hop aboard the online banking bandwagon. And if you're already banking (at least in part) online, explore the full range of what your bank offers compared with its competitors.

For example, you might "cross-pollinate" your current online-accessible checking account with an Internet-based bank's higher-yielding savings account. The right arrangement will let you sweep excess funds from checking into that savings



account. Depending on the fee (ideally you won't incur one at all) and the interest rate differential, this could be a good deal.

Frugal fee assessment

Speaking of fees, look at these expenses carefully. Deposit accounts that were previously free may now be costing you money. And late-payment charges for bank loans and credit accounts are also typically high.

In addition, assess your current overdraft protection — the service that, for a fee, pays for account overdraws. Under current rules, customers need to "opt in" for such protection. Yet you may not need to if you're able to set up e-mail or text message alerts that warn of a low balance.

Bank for your buck

Are you getting enough bank for your buck? Taking a close look at what you're getting — and what you could get — might yield great money-saving opportunities. ♦

Tick, tock ... an important doc

Why your corporate minutes matter

“Let’s review your corporate minutes.” Those five words may sound about as exciting as, “Let’s review your procedures for cleaning out the break-room refrigerator.” Yet if you’ve let your documentation skills slip in this area, you could be unnecessarily exposing your business to significant risk.

Do we have to?

First, let’s clarify the terminology. If your company is structured as a C or S corporation or as a limited liability company (LLC), you may be required by state law to keep minutes under your articles of incorporation. For other entity types, recording your important business meetings may not be required but it’s still a good idea.

Why? First and foremost, risk management. In the event of a lawsuit, detailed and clearly written minutes can help map out a trail that you, your financial advisors and your attorneys can use to defend a disputed decision or transaction in a court of law.

For tax purposes, thorough minutes are useful in targeting effective dates for deductions and other breaks as well as for justifying the accrual of expenses and fixed obligations. And, beyond taxes, these records are helpful for strategic planning by summing up the important issues your company has faced and documenting what was decided and when.

Are we doing it right?

With all of these reasons in mind, look back at your own minute-keeping during the previous year and try to get a sense of how well you’re doing. First, are you keeping minutes at the right times?

Corporations generally must record the minutes of all meetings of the board of directors. But these and other entity types should also keep minutes of any meeting attended by top decision-makers in

which mission-critical matters are discussed — and especially when major decisions are made.

There’s also the “how” of corporate minutes. The employee(s) charged with this task should receive formal training in meeting documentation. Minutes aren’t intended to be word-for-word transcriptions of what takes place; rather, they need to substantively summarize what was discussed and, as mentioned, identify which important decisions were made.

Your minutes should also reflect, among other things, the date, time and location of the meeting; the meeting’s purpose (regularly scheduled vs. emergency session, for example); and the names and titles of attendees.

Where have we been?

As mundane as they may seem, corporate minutes provide a highly effective format for tracking where your company has been each year in terms of topics discussed and decisions made. If your minutes leave you more befuddled than informed, it may be time to tighten up your minute-keeping procedures. ♦



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This quarterly newsletter is intended to review and explain business issues, trends and ideas to business owners and executives. We hope this publication will help you deal more effectively with a variety of management, tax and business planning issues. However, it is not intended to provide accounting, legal or other professional advice.

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