



## 529 Plans and Tax Changes

It may be time to rethink how the 529 Savings Plan can be used. Under the Tax Cut and Jobs Act of 2017, funds in 529 Plans are no longer restricted to college and university expenses. This means that families who used to foot the bill for private school tuition (kindergarten through 12th grade) from already-taxed assets can now use the tax-advantaged accounts to minimize some of the costs.

However, the new law limits what one can take tax advantaged. Only \$10,000 per year, per child can be withdrawn from 529 plans for use on the kindergarten to 12th grade tuition. Be mindful fees and other expenses other than tuition will not qualify under the current law. A Bill was introduced into Congress recently to rectify this, but as of now only tuition will qualify. Anything above that will be subject to a Federal penalty of 10 percent as well as paying taxes on any gains -- much like how early withdrawals on retirement plans are treated.

There are also other reasons why families may not want to rush to spend their 529 plan dollars on primary education.

The new tax law is applied at the federal level, which means it is still possible that the rules may not apply at the state level. Many states have not yet conformed to the new law and some, such as New York, have determined that it will not apply, as NY will treat payments for K to 12 as nonqualified distributions. New Jersey recently conformed to the law and will treat the K to 12 tuition payments as qualified distributions. For households, that means that they will want to consult with a tax professional before altering their payment plans.

Finally, because families may elect to use 529 Plans well before college, the time horizon for the invested funds to accrue gains is compressed. This may affect how families choose to allocate those funds, as instead of having an 18-22 year time horizon, some funds may be tapped in as early as five years. Some families may even elect to establish two plans per child, with one that is configured for college expenses and one that is set up for grade school -- with differing strategies for each. If doing so, families will still have to be mindful of the annual contribution limits.

For more information about how the TCJA changes may present planning opportunities around 529 plans, contact your Anchin Relationship Partner or Richard Stieglitz, a partner in Anchin Private Client, at 212.840.3456 or [info@anchin.com](mailto:info@anchin.com).



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