Tax Cuts and Jobs Act expands appeal of 529 plans in estate planning

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It's common for grandparents to want to help ensure their grandchildren will get a high quality education. And, along the same lines, they also want the peace of mind that their wealth will be preserved for their children and grandchildren after they're gone. If you're facing these challenges, one option that can help you conquer both is a 529 plan. And it's become even more attractive under the Tax Cuts and Jobs Act ("TCJA").

529 plan in action

In a nutshell, a 529 plan is one of the most flexible tools available for funding college expenses *and* it can provide significant estate planning benefits. 529 plans are sponsored by states, state agencies and certain educational institutions. You can choose a prepaid tuition plan to secure current tuition rates or a tax-advantaged savings plan to fund college expenses. The savings plan version allows you to make cash contributions to a tax-advantaged investment account and to withdraw both contributions and earnings free of federal — and, in most cases, state — income taxes for "qualified education expenses."

Qualified expenses include tuition, fees, books, supplies, equipment, and a limited amount of room and board. And beginning this year, the TCJA has expanded the definition of qualified expenses to include not just postsecondary school expenses but also primary and secondary school expenses. This change is permanent.

529 plan and your estate plan

529 plans offer several estate planning benefits. First, even though you can change beneficiaries or get your money back, 529 plan contributions are considered "completed gifts" for federal gift and generation-skipping transfer ("GST") tax purposes. As such, they're eligible for the annual exclusion, which allows you to make gifts of up to $15,000 per year ($30,000 for married couples) to any number of recipients, without triggering gift or GST taxes and without using any of your lifetime exemption amounts.

For estate tax purposes, all of your contributions, together with all future earnings, are removed from your taxable estate even though you retain control over the funds. Most estate tax saving strategies require you to relinquish control over your assets — for example, by placing them in an irrevocable trust. But a 529 plan shields assets from estate taxes even though you retain the right (subject to certain limitations) to control the timing of distributions, change beneficiaries, move assets from one plan to another or get your money back (subject to taxes and penalties).

529 plans accept only cash contributions, so you can't use stock or other assets to fund an account. In addition, their administrative fees may be higher than those of other investment vehicles. Please contact us to help you plan for the distribution of your wealth using various estate planning strategies, such as a 529 plan.

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