

The Law and You For Your Children or Grandchildren, Consider a 529 Educational Plan

For the past dozen years, college tuition has increased at a far faster rate than general inflation. And, there is no end in sight. For your children or grandchildren, you should begin now to plan for their educational needs.

In a previous column a couple of years ago, I discussed the provisions of Utah's Uniform Transfers to Minors Act. The Act permits parents and grandparents to gift money to a minor for any purpose.

Under the Act, there is no tax advantage to parents or grandparents. All gains in such accounts are taxed at the rate of the minor child.

When the minor reaches the age of 18, he or she can immediately take possession to all of the money gifted, including all gains realized from interest or investments.

An attractive alternative to the Act is a 529 Educational Plan. Congress empowered the States to establish educational saving plans under Section 529 of the Internal Revenue Code. In 1996, Utah adopted the Higher Education Savings Incentive Program, formally enacted as 58B-8a-101, et al, Utah Code Annotated.

This Program created the Utah Educational Savings Plan Trust (the "Trust"). The Trust is administered by the Utah State Board of Regents, and all educational savings accounts are invested with assistance from the Utah State Treasurer.

Now, what does this mean to you? A 529 Plan is intended for your child's or grandchild's education.

None of the income or gains realized on contributions to a 529 Plan are subject to federal or state taxes. Moreover, the first \$1,435 in contributions each year can be taken as a deduction on your Utah tax return. For a married couple filing jointly, \$2,870 can be deducted.

A 529 Plan is also quite flexible. If a child or grandchildren does not go to college, the funds can be transferred to a 529 Plan for another child or grandchild. A 529 Plan is required for each child or grandchild. And, you can have as many 529 Plans as you wish to fund.

The maximum aggregate contributions to a single 529 Plan are limited to \$280,000. And you may contribute up to \$55,000 in any one year. This is in stark contrast to the \$11,000 annual limit for gifts to one person to avoid federal gift taxes. The \$55,000 is treated as a series of five equal gifts of \$11,000.

Once you create a Plan, you may make periodic contributions to it, or, you can arrange for automatic withdrawals from your checking or savings account.

You can close and transfer accounts that you may have created under the Uniform Transfers to Minors Act. You can also invest in an educational IRA or Coverdell account in the same year without any penalty.

There is a wealth of information available on the Internet. Utah's basic site is at www.uesp.org. The site contains answers to many questions. You can also obtain a 24 page Fact Booklet, which includes a Worksheet that is very helpful in calculating how much to invest based on a child's present age.

The Booklet also summarizes each of the nine Options that are available, depending on your risk profile. Most of these options change investment strategies as your child or grandchild approaches college age. That is, while a child is very young, aggressive investment strategies are employed. Within a few years of college, these strategies become much more conservative. The Booklet provides greater detail.

At the www.uesp.org web site, you can also obtain and complete online an Application to create a 529 Plan for your child or grandchildren. It takes only a few minutes to complete, and then you sign it and mail it with a check to Utah Educational Savings Plan.

Each State has enacted legislation to take advantage of the Section 529 provision in the Tax Code. Although you can have a 529 Plan in almost every state, Utah's Program is rated highly. For instance, if you go to www.401kid.com, you will find that Utah is one of only six states with an A+ rating. At the same site, you can see comparisons of 529 Plans for all states.

As with any financial investment, there are risks in creating a 529 Plan. There are no guarantees. However, these plans have the advantage of pooling funds for maximum investment leverage. You must use your best judgment, but for education, it is difficult to beat the advantages of a 529 Plan.