

The Law and You A Christmas and Tax Gift

At this time of year, you might consider a Christmas gift for your children or grandchildren and enjoy a tax gift.

The way to do this is to establish 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 "UESP Trust"). UESP 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 \$1,510 in contributions to a 529 Plan are deductible on your Utah tax return. For a married couple filing jointly, \$3,020 can be deducted, and this amount is generally increased each year.

And, this tax deduction is available for each 529 Plan. That is, you can have a 529 Plan for each child or grandchild.

A 529 Plan is 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. Although a 529 Plan is required for each child or grandchild, you can have as many 529 Plans as you wish to fund.

The maximum aggregate contributions to a single 529 Plan are limited to \$319,000 (for 2005). 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. For a married couple filing jointly, \$110,000 can be gifted to a single 529 Plan over the 5-year averaging election.

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 investment 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 UESP's 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

generally rated highly. For instance, if you search the Internet for “529 Plan Utah” you will find that Utah is frequently mentioned in a favorable light.

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.

According to UESP, there are 4,200 grandparents saving in 529 Plans in Utah. Through the first nine months of 2005, more than \$35 Million Dollars have been contributed to Utah’s 529 Plans.

You must open a 529 Plan and contribute to it by December 30, 2005, in order to qualify for the tax deduction in 2005. So, you should act now.