



Indiana Department of Revenue

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Income Tax Information Bulletin #98

Subject: Indiana 529 Education Savings Plan Credit

Publication Date: November 2023

Effective Date: Upon Publication

References: IC 6-3-3-12; IC 21-9; IRC § 529

Replaces Bulletin #98, dated May 2020

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Summary of Changes

Apart from technical, nonsubstantive changes, this bulletin has been revised to reflect that beginning with the 2023 tax year, the credit limit increases to \$1,500 (or \$750 for married individuals filing separate returns) and to reflect that contributors can elect to treat certain contributions made on or before the due date of the individual tax return for a taxable year as being made in the preceding calendar year. In addition, this bulletin clarifies that distributions or transfers to Indiana ABLE 529A savings accounts will be treated as qualified withdrawals for purposes of credit recapture. Also, this bulletin provides that rollovers to Roth IRAs will not be treated as qualified withdrawals even if the rollover qualifies for exclusion from federal gross income. Finally, this bulletin clarifies that tax recaptures are treated as state income taxes for purposes of estimated tax penalties.

Introduction

The purpose of this bulletin is to provide guidance concerning the Indiana income tax credit for contributions to the Indiana CollegeChoice 529 Education Savings Plan. The credit applies to contributions made for taxable years beginning after Dec. 31, 2006.

In the event that the Indiana CollegeChoice 529 Education Savings Plan is renamed, this bulletin will apply to any renamed entity in the same manner as this bulletin otherwise applies.

Definitions

An Indiana CollegeChoice 529 Education Savings Plan is a reference to a plan established by Indiana pursuant to Section 529 of the Internal Revenue Code (IRC). An IRC § 529 plan is a program under which a person may make cash contributions to an account on behalf of a beneficiary for payment of qualified higher education expenses. The program must be established and maintained by a state, a state agency, an instrumentality of the state, or one or more eligible educational institutions. Qualified higher education expenses include tuition, fees, books, supplies, and equipment required by a post-secondary educational institution for enrollment or attendance. Reasonable room and board expenses for post-secondary education are included if the beneficiary is enrolled at least half-time. In addition, expenses for special needs services at a post-secondary educational institution for a special needs beneficiary are included in the definition of qualified higher education expenses.

Primary or secondary school (K-12) tuition paid for enrollment or attendance at a public, private, or religious school is also considered a "qualified higher education expense" under IRC Section 529. However, no more than \$10,000 in K-12 tuition per beneficiary per taxable year will be considered a qualified higher education expense. This limit applies to all distributions from all accounts for that beneficiary and is not on a per-account basis. Further, for Indiana purposes, any withdrawal for K-12 tuition must be used for tuition at an in-state school to be considered a qualified withdrawal.

Also, effective Jan. 1, 2019, withdrawals used to pay expenses for fees, books, supplies, and equipment required for the participation of a designated beneficiary in an apprenticeship program registered and certified with the Secretary of Labor under section 1 of the National Apprenticeship Act are considered to be qualified withdrawals. Further, effective Jan. 1, 2020, the definition of qualified higher education expenses for Indiana credit recapture purposes excludes withdrawals for payment of student loan expenses.

A "taxpayer" means an individual filing a single return, a married couple filing a joint return, or, effective Jan. 1, 2020, a married individual filing a separate return.

"Contribution" means the amount of money directly provided to an Indiana CollegeChoice 529 Education Savings Plan account by a taxpayer. A contribution does not include the following:

- Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account;
- Money transferred from any other qualified tuition program under IRC § 529 or from any other similar plan;
- Before January 1, 2024, money that is credited to the account and will be transferred to an Achieving a Better Life Experience (ABLE) account;
- Beginning January 1, 2024, money transferred from any qualified ABLE program under IRC § 529A or any other similar plan; or

- Money the account beneficiary receives as a refund of qualified expenses from an eligible educational institution and that is recontributed to the plan for the same account beneficiary within 60 days of the date of the refund.

Effective Jan. 1, 2019, a contribution to an Indiana CollegeChoice 529 Education Savings Plan account intended to be used to pay for K-12 tuition must be designated as such. Such designation must be made in the manner prescribed by the Indiana CollegeChoice 529 Education Savings Plan administrator.

“Qualified withdrawal” means a withdrawal or distribution from an account of the Indiana CollegeChoice 529 Education Savings Plan that is made to pay for qualified higher education expenses, excluding any withdrawals or distributions for qualified higher education expenses if the withdrawal or distribution is made from an account that is terminated within 12 months after the account is opened.

Qualified withdrawals also include withdrawals made:

- Due to the death or disability of an account beneficiary;
- Due to an account beneficiary receiving a scholarship that paid all or part of the qualified higher education expenses of the account beneficiary; or
- Due to a transfer of funds by the plan from one third-party custodian to another.
- Due to a transfer of funds to an Indiana ABLÉ 529A savings plan, beginning in 2024.

“Nonqualified withdrawal” means a withdrawal or distribution from an Indiana CollegeChoice 529 Education Savings Plan that is not a qualified withdrawal. Any withdrawal that is not considered a qualified withdrawal for federal purposes is not considered a qualified withdrawal for Indiana purposes.

In addition, the following withdrawals are not considered qualified withdrawals for purposes of recapturing previously-claimed credits:

- A rollover distribution or transfer from the Indiana CollegeChoice 529 Education Savings Plan to any other IRC § 529 plan or similar plan.
- A distribution from the Indiana CollegeChoice 529 Education Savings Plan to Roth IRAs, even if it qualifies for rollover treatment under IRC § 529(c)(3)(E). Even though the distribution is excluded from federal income tax, it does not constitute a qualified education expense as defined in IRC § 529.
- For 2023 and earlier, a distribution or transfer from the Indiana CollegeChoice 529 Education Savings Plan to an Achieving a Better Life Experience (ABLE) account.
- For 2024 and later, a distribution or transfer from the Indiana CollegeChoice 529 Education Savings Plan to an Achieving a Better Life Experience (ABLE) account other than an Indiana ABLÉ 529A savings plan.
- Amounts used to pay for tuition at an out-of-state K-12 school.
- Effective Jan. 1, 2020, a withdrawal used to pay student loans incurred to pay higher education expenses, as otherwise permitted under IRC § 529(c)(9). This is because such payments have been defined to not be “qualified higher education expenses” under IC 6-3-3-12(g).

- For calendar year 2019 only, such withdrawals will be recognized as a qualified withdrawal, provided that the other qualifications under IRC § 529(c)(9) are met.
- For years before 2019, such withdrawals did not constitute qualified withdrawals for both federal and Indiana purposes.

The explanation above affects only whether a withdrawal will result in a credit recapture. Indiana follows the same rules as federal law regarding whether the withdrawn amount (or portion of the amount) is considered adjusted gross income. Thus, a withdrawal may be subject to credit recapture for Indiana purposes even if the withdrawal is not subject to state adjusted gross income tax or federal income tax.

Tax Credit Availability

For tax years 2022 and earlier, the tax credit is available only to taxpayers who made a contribution to an account in the Indiana CollegeChoice 529 Education Savings Plans postmarked or received by a delivery service by Dec. 31 of the year for which the contribution is made. An electronic funds transfer initiated on or by Dec. 31 is eligible for the credit for the year the transaction was made. The contributor does not have to be the owner of the account to be eligible to claim the credit. Contributions to accounts established through private colleges or universities or in a 529 plan not offered by the State of Indiana are not eligible for the credit; however, funds in the Indiana CollegeChoice 529 Education Savings Plan can be used by the account beneficiary to pay qualified higher education expenses for attendance at any eligible educational institution.

For tax years 2023 and later, the tax credit also is available to individuals who make a contribution to an Indiana CollegeChoice 529 Education Savings Plan during the current year on or before the due date of the individual's return (i.e., April 15, adjusted for weekends and holidays) for the immediately preceding tax year prior to any extensions, and:

1. irrevocably elect to treat the contribution as being made in the previous tax year, and
2. irrevocably elect to treat the contribution as not being eligible for credit for the current tax year.

The date on which a contribution is made will follow the pre-2023 rules for postmark or electronic transfer date. The means of designating an election and other details associated with the election are in the process of development. Further information will be available at collegechoicedirect.com.

The tax credit is available to an individual filing a single return or a married couple filing a joint return. Effective Jan. 1, 2020, the tax credit is available to married individuals filing separate returns. The taxpayer is entitled to a credit against the state adjusted gross income tax liability for a taxable year. The credit cannot be used to offset any county tax liability. For 2018, the amount of the credit is the lesser of the following:

- 10% of the amount of all contributions made for K-12 tuition (up to a maximum credit of \$500) plus 20% of the amount of all contributions for post-secondary education the

taxpayer makes to an account(s) of the Indiana CollegeChoice 529 Education Savings Plan during the taxable year;

- the amount of the taxpayer's adjusted gross income tax liability for the taxable year reduced by the amount of credits allowed under IC 6-3-1 through IC 6-3-7; or
- \$1,000.

Example #1: A taxpayer establishes an account for their child. The taxpayer contributes \$4,000 in 2018 to the plan during the taxable year for K-12. The taxpayer would be eligible for a tax credit of \$400. The child's grandmother makes a \$10,000 contribution to the same account during the same taxable year, also for K-12. The grandmother would be eligible to claim a tax credit of \$500 (maximum allowed for K-12).

If the taxpayer's 2018 contribution had been \$6,000 for K-12 and \$4,000 for college expenses, the taxpayer would have been eligible for a \$500 credit for K-12 (the maximum for K-12) and an \$800 credit for the college expense portion, for a total of \$1,300. However, this is subject to the \$1,000 aggregate cap, so the maximum allowable credit is \$1,000.

For the 2019 through 2022 tax years, the amount of the credit is the lesser of the following:

- 20% of the amount of all contributions the taxpayer makes to an account(s) of the Indiana CollegeChoice 529 Education Savings Plan during the taxable year, including those designated for K-12 tuition;
- the amount of the taxpayer's adjusted gross income tax liability for the taxable year reduced by the amount of credits allowed under IC 6-3-1 through IC 6-3-7; or
- \$1,000 for single individuals and married individuals filing a joint return.
 - For 2020 and later, this is \$500 for married individuals filing a separate return. Prior to 2020, married individuals filing a separate return were not permitted a credit.
 - In the case of a married individual filing a separate return, the credit is permitted only for that individual's contributions. The other spouse's contributions may not be claimed by the separately-filing individual.

Example #2: A taxpayer establishes an account for their child in 2020. The taxpayer and the taxpayer's spouse file separate returns. Taxpayer contributes \$2,000 to the plan during the taxable year for college expenses. The taxpayer would be eligible for a tax credit of \$400. The taxpayer's spouse makes a \$1,000 contribution to the same account during the same taxable year for college expenses. The spouse would be eligible to claim a tax credit of \$200. Neither the taxpayer nor the spouse may use the other's contribution in determining their respective credits.

Beginning with the 2023 tax year, the amount of the credit is the lesser of the following:

- 20% of the amount of all contributions the taxpayer makes to an account(s) of the Indiana CollegeChoice 529 Education Savings Plan during the taxable year, including those designated for K-12 tuition;

- the amount of the taxpayer's adjusted gross income tax liability for the taxable year reduced by the amount of credits allowed under IC 6-3-1 through IC 6-3-7; or
- \$1,500 for single individuals and married individuals filing a joint return.
 - This is \$750 for married individuals filing a separate return.
 - In the case of a married individual filing a separate return, the credit is permitted only for that individual's contributions. The other spouse's contributions may not be claimed by the separately-filing individual.

Any taxpayer who makes a contribution to an Indiana CollegeChoice 529 Education Savings Plan is eligible for the tax credit even if the taxpayer is not the owner of the account.

Example #3: A taxpayer establishes an account for their child. The taxpayer contributes \$4,000 to the plan during the taxable year for college expenses. The taxpayer would be eligible for a tax credit of \$800. The child's grandmother makes a \$15,000 contribution to the same account during the same taxable year for college expenses. The grandmother would be eligible to claim a tax credit of \$1,500 (maximum allowed).

A taxpayer qualifying for the credit is not entitled to a carryback, carryforward, or refund of any unused credit. The tax credit may not be sold, assigned, or transferred by the taxpayer eligible to claim the credit.

A taxpayer shall claim the credit on their annual state income tax return. The taxpayer, upon request of the department, shall submit proof of the amount of the contributions made to the trust account during the taxable year. The requested proof may be submitted by providing a copy of the taxpayer's account statement for the year in which the credit is claimed.

Example #4: A taxpayer's Indiana tax liability for 2023 is \$1,000. The taxpayer has made prior tax payments in 2023 to the department via withholding or estimated payments of \$1,300. The taxpayer has contributed \$400 to Indiana colleges in 2020 and is eligible to claim a \$200 college credit. The taxpayer made a \$5,000 contribution to an account of the Indiana CollegeChoice 529 Education Savings Plan for college expenses in 2023, so the taxpayer is entitled to a \$1,000 529 Plan credit. On the taxpayer's 2023 adjusted gross income tax return, the \$200 college credit is applied to reduce the taxpayer's tax liability from \$1,000 to \$800. Then, \$800 of the 529 Plan credit is applied against the \$800 balance of the taxpayer's tax liability to reduce this tax liability to \$0. The remaining \$200 of the 529 Plan credit is not usable. Since the combination of the college credit and 529 Plan credit has reduced the taxpayer's liability to \$0, the taxpayer has overpaid their 2023 taxes by \$1,300 and is entitled to a \$1,300 refund. The taxpayer is not entitled to any refund, carryback, or carryforward of the \$200 unused 529 Plan credit.

Tax Credit Recapture

An account owner of an Indiana CollegeChoice 529 Education Savings Plan who makes a nonqualified withdrawal in a taxable year must repay all or part of the tax credit in the year in

which the nonqualified withdrawal is made from the account. The amount to be repaid is equal to the lesser of:

- 20% of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- The excess of the cumulative amount of all credits that are claimed by any taxpayer with respect to the taxpayer's contributions made to the account for all taxable years beginning on or after Jan. 1, 2007, minus the cumulative amount of tax credits repaid by the account owner for all prior taxable years beginning on or after Jan. 1, 2008.

The required repayment shall be reported by the account owner on the account owner's annual income tax return for the taxable year in which the nonqualified withdrawal is made. The account owner must include Schedule IN-CR with the return and list the repayment on Schedule 4 of Form IT-40 or Schedule E of Form IT-40PNR, whichever is appropriate. The repayment is treated as a state income tax for purposes of IC 6-3-4-4.1. Please refer to Income Tax Information Bulletin #3 for further information related to estimated payments, penalties, and special rules related to estimated payments, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

If an account owner is not otherwise required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made and the account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-8-2.

Indiana's CollegeChoice 529 Education Savings Plan is administered through the Indiana Education Savings Authority. For more information, visit www.in.gov/tos/iesa/.

If you have any questions concerning this bulletin, contact the Tax Policy Division at taxpolicy@dor.in.gov.



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