

Tax help for New Mexico's income tax treatment of 529 plans ...

New Mexico Taxation and Revenue Department

NEW MEXICO INCOME TAX AND YOUR EDUCATION TRUST(529)PLAN

Make it work for you...



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INTERNAL REVENUE SERVICE

The Internal Revenue Service (IRS) is the first contact for questions about taxability of the 529 plan in which you wish to invest. Visit the IRS online at www.irs.gov. On the IRS site search for "QSTP" or "QTP" for "qualified tuition programs", or telephone 1-800-829-1040.

FOR GENERAL PLAN INFORMATION

1. Federal initiatives for 529 plans

For information about 529 plans, including those sponsored by states other than New Mexico, look online at www.collegesavings.org.

2. New Mexico Education Trust Fund

New Mexico Approved 529 College Savings Programs:

The Education Plan
www.theeducationplan.com
1-877-337-5268

Scholarsedge
www.scholarsedge529.com
1-866-529-7283

NEW MEXICO DISTRICT TAX OFFICES

New Mexico offers free tax help and advice at the TRD district tax offices. **TRD is qualified to answer state tax questions only.** General questions about the 529 plans and provisions should go to the web address or telephone number of the plan administrators listed above.

1. District A (Santa Fe) (505) 827-0951
2. District B:
(Albuquerque) (505) 841-6200
(Farmington) (505) 325-5049
3. District C (Las Cruces) (575) 524-6225
4. District D (Roswell) (575) 624-6065

OR:

Write to us at: Tax Information and Policy Office, Post Office Box 630, Santa Fe, NM 87504-0630.

The New Mexico Personal Income Tax (PIT) forms and instructions are posted on the TRD web site at www.tax.newmexico.gov in late December. Click on "forms and publications" and then on "income tax forms." Prior-year forms and instructions also appear on the site.

To find publications on the TRD home page at www.tax.newmexico.gov, click on "forms and publications." Brochures are posted toward the top of the listings; more-detailed FYI publications follow the brochures. ■

How New Mexico treats your education trust (529 plan) for personal income tax ...

Americans know that the future depends upon an educated, informed citizenry. College educations for qualified students are vital to that future.

As a hedge against higher tuition and educational expenses guaranteed to be part of our children's and grandchildren's tomorrows, New Mexicans have an opportunity to put money aside today through education trust funds under Section 529 of the Internal Revenue Code.

Both the federal government and the State of New Mexico encourage saving for college by offering you tax incentives for investing in 529 plans.

Such plan accounts work like 401(k) investments. They bear risks and carry no guarantees because their values depend on the marketplace (call your plan for disclosure). Gains or losses can occur on a daily basis. Like other market-based investments, 529 plans are not FDIC-insured. You may contribute over the net, through payroll deductions or through brokerages.

The New Mexico statute establishing the deduction for contributions to the Education Trust

Fund is Section 7-2-32 NMSA 1978. The next statute, Section 7-2-33 NMSA 1978, declares Education Trust Fund earnings tax exempt, makes withdrawals taxable and requires the Education Trust Board to withhold tax from certain plan refunds.

Personal Income

As a "piggyback" state New Mexico taxes your income as a percentage of the federal adjusted gross income (FAGI) on your federal return. The FAGI is the first IRS figure you transfer to your New Mexico PIT-1 return. In most instances this means whatever the IRS taxes, New Mexico taxes; whatever the IRS excludes, New Mexico excludes. There are a number of exceptions like 529 plans, however, and they are handled on New Mexico's PIT-ADJ schedule. Refer to PIT-ADJ instructions for certain 529 plan transactions.

As an investor you encounter four kinds of 529 transactions with implications for New Mexico income tax :

- **Contributions to a 529 plan**, deductible in New Mexico, do not appear in federal adjusted gross income. Take the special New Mexico deduction on the PIT-ADJ schedule.
- **Rollovers and appreciation** from one 529 plan account to another depend on whether they come from another state's plan to New Mexico's plan, or transfer to another state's plan from the New Mexico plan. Incoming rollovers of contributions and appreciation from another state's plan to New Mexico's Education Trust Fund are not taxable. Outgoing rollovers, however, are subject to tax.

See your plan's website for the latest information on new transfers.

- **Withdrawals (qualified)** from 529 plan accounts to pay *qualified higher education expenses* divide into two classes — contributions and earnings. Neither category appears in the FAGI. New Mexico does not tax qualified withdrawals from its own state 529 plan. To the extent that the Internal Revenue Service allows a deduction from FAGI for other states' plans, an investor does not pay tax on withdrawals here. Some versions of federal guidelines refer to withdrawals as "distributions".



- **Withdrawals (unqualified)** spent for *unqualified higher education expenses*, as well as refunds from the New Mexico Education Trust Fund account, are subject to tax in the year in which they are received. Unqualified withdrawals separate into two classes: For an *unqualified withdrawal* New Mexico adds the original untaxed contribution back into New Mexico taxable income. *Earnings*, the second class, are already part of the FAGI and do not need separate treatment. Federal guidelines often refer to withdrawals as "distributions".

Estate Tax

Contributions to a 529 plan are completed gifts excluded from your estate, and as such the prepaid tuition plan and the college savings program benefit both the donor and the beneficiary. Because New Mexico's

estate tax depends on federal estate tax provisions, estate tax liability in New Mexico as a result of 529 plans is remote. New Mexico does not have "gift tax."

Please see the contact information elsewhere in this brochure to learn more about this method of financing your children's or grandchildren's higher education. The sites have additional details about tax benefits you can receive if you decide to invest. ♦