



Legal Alert: Tax Reform Bill – Changes to Section 529 Qualified Tuition Programs and Section 529A Qualified ABLE Programs

January 4, 2018

On December 22, 2017, the President signed into law the bill formerly known as the Tax Cuts and Jobs Act (the Final Bill). This alert summarizes the principal provisions affecting Section 529 Qualified Tuition Programs and Section 529A Qualified ABLE Programs.

See the Eversheds Sutherland [Tax Reform Law blog](#) for more information about the Final Bill, including alerts on the [accounting methods](#), [compensation and benefits](#), [energy](#), [insurance](#) and [international](#) provisions of the Final Bill.

Section 529 Qualified Tuition Program Changes

Section 529, enacted as part of the Small Business Job Protection Act of 1996, permits a state (or agency or instrumentality of a state) to establish a tax-advantaged savings program under which persons may (1) purchase tuition credits on behalf of a designated beneficiary entitling the beneficiary to a waiver or payment of qualified higher education expenses, or (2) contribute to an account established for the purpose of meeting qualified higher education expenses of the designated beneficiary of the account.

The Final Bill makes the following changes to section 529:

- Section 529 account distributions can be used for up to \$10,000 in tuition per student in connection with enrollment or attendance at a public, private or religious elementary or secondary school. While the December 15 version of the bill permitted 529 account distributions to be used for expenses in connection with homeschool, that provision was removed to comply with certain procedural rules in the Senate. This provision applies to distributions made after December 31, 2017.
- The Final Bill permits amounts in a section 529 account to be rolled over to an ABLE account for the same designated beneficiary, or a member of the family of the designated beneficiary, federal income tax-free, subject to ABLE contribution limitations. This provision applies to distributions made after the December 22, 2017 enactment of the Final Bill and before January 1, 2026.

Section 529A Qualified ABLE Program Changes

Section 529A, enacted as part of the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014, permits a state (or agency or instrumentality of a state) to establish a tax-advantaged savings program under which contributions may be made to an ABLE account that is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account.

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The Final Bill makes the following changes to section 529A:

- The Final Bill increased the contribution limit to ABLE accounts for certain employed ABLE account designated beneficiaries by an amount equal to the lesser of (a) compensation includible in the designated beneficiary's gross income for the taxable year and (b) an amount equal to the poverty line (as determined under the Community Services Block Grant Act) for a one-person household as determined for the year prior to the then-current year. To qualify for this contribution limit increase, the designated beneficiary must be an employee with respect to whom, for the taxable year, no contribution is made to: (1) a tax-qualified defined contribution plan, (2) a section 403(b) annuity contract, or (3) a section 457(b) eligible deferred compensation plan. Designated beneficiaries or those acting on their behalf will be responsible for the recordkeeping regarding the increased contribution limit. This provision applies to taxable years beginning after the December 22, 2017 enactment of the Final Bill, but only with respect to contributions made before January 1, 2026.
- The Final Bill also makes designated beneficiaries of ABLE accounts eligible for the Saver's Credit under section 25(B) by expanding the definition of "qualified retirement savings contributions" to include contributions made by an individual to the ABLE account to which such individual is the designated beneficiary. This provision applies to taxable years beginning after the December 22, 2017 enactment of the Final Bill, but only with respect to contributions made before January 1, 2026.

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