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NATIONAL ASSOCIATION OF ESTATE PLANNERS & COUNCILS
COLLABORATE · EDUCATE · CULTIVATE

Mission to promote excellence in estate planning by serving estate planning councils and their accredited members – AEP® s and EPLS®

265 member Councils and 40,000+ members

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61st Annual NAEPC
Advanced Estate Planning Strategies Conference
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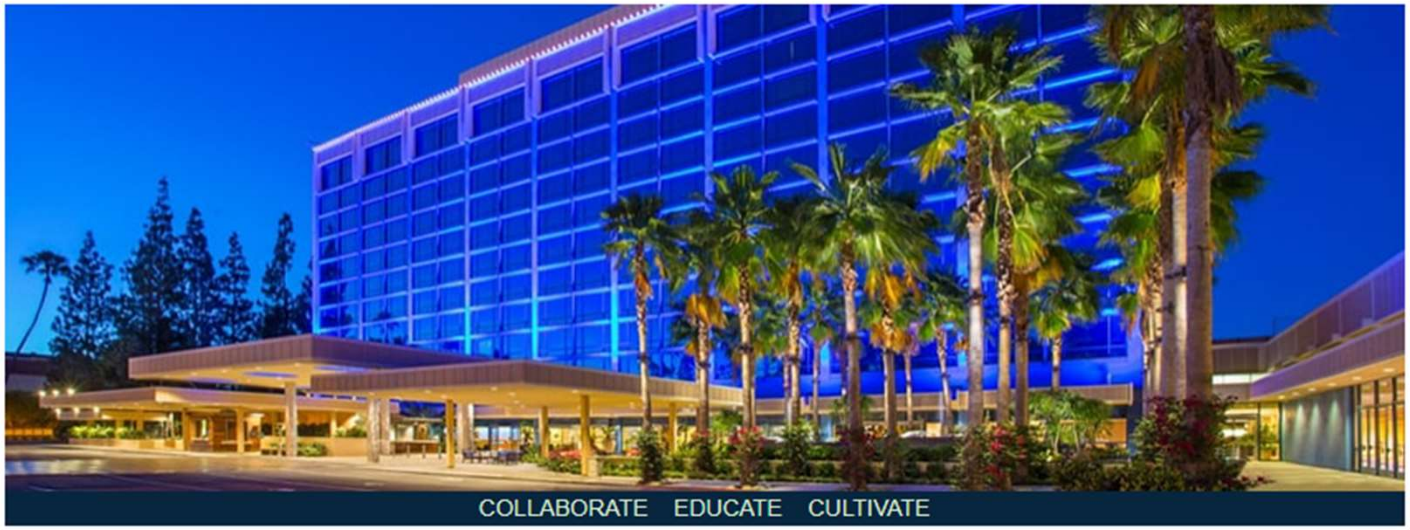
October 20 - 24, 2024 - Anaheim, California
Disneyland® Resort



Collaboration Designation

Accredited Estate Planner® Designation

Administered by the National Association of Estate Planners & Councils, the Accredited Estate Planner® designation means "I believe in the team concept of estate planning" and attainment allows designees to distinguish themselves to clients and among peers as a true member of the team.

It is awarded only to estate planning professionals who meet special requirements of education, experience, knowledge, professional reputation, and character. This page of our website offers an overview of the program requirements and additional information can be obtained by downloading an application below or by reviewing the "Frequently Asked Questions."

"As I focused more and more on estate planning in my practice, I began to realize the importance of finding another professional credential that spoke to my commitment to estate planning and need to collaborate successfully with other professionals in the estate planning team. No one professional can do it all and by earning the Accredited Estate Planner, AEP® designation I communicate to my clients and peers that I am actively engaged in building relationships with like-minded professionals who are aligned with my passion for excellence in estate planning. This collaborative approach brings out the best in me and my team in service to our clients. I highly recommend this designation so that you, too, can take your practice to the next level."
- Paul S. Viren, CLU®, ChFC®, AEP®, designee since 2011

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529 PLAN MYTHS DEBUNKED:

The Facts About the Estate Planning Benefits of 529s

Kit Mac Nee, CFP®, CRPC®, CSPG ®, AEP®, QPFC®
Financial Advisor
Envision Legacy Group at Morgan Stanley

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MYTH 1

529 Plans are inflexible, and must be used to pay for college expenses.

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FACT 1

529 Plans were designed by Congress for maximum flexibility, with unique gifting, estate planning, control and tax savings benefits

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EXPLAIN HOW TO:

- Reduce Current and future tax liability
- Pass wealth onto children, grandchildren and future generations
- Fully control assets even though assets are outside of the estate
- Reduce expenses associated with trusts
- Protect assets from creditors

WHAT IS A 529 PLAN?

A gift from Congress

- Created by Congress in 1996, 529 Qualified State Tuition Plans" are tax advantaged programs with special estate planning, gifting and creditor protection provisions
- Many Congressional leaders, staff and tax experts view Section 529 as one of the most generous tax provisions ever passed by Congress for the benefit of American families

WHAT IS A 529 PLAN?

Even IRS Acknowledges Speciate Treatment

"In addition, the estate planning and gift tax treatment of contributions to a Qualified State Tuition Plan (QSTP) and interests in a QSTP is generally different from the treatment that would otherwise apply under generally applicable estate and gift tax principles."

Preamble to Proposed IRS 529 Regulations

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MYTH 2

The money in a 529 Plan account must be used to pay for college expenses for the benefit of the designated beneficiary.

FACT 2

The account owner maintains full control of the assets in a 529 Plan account at all times.

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ACCOUNT OWNER CONTROL

The Owner retains full control and has the ability to:

- Change investment options(twice per calendar year)
- Change the Beneficiary (unlimited times)
- Transfer account ownership
- Rollover assets to another 529 plan (1x per 12 months) or into a Roth IRA for the same beneficiary
- Decide when and even whether to distribute assets
- Make withdrawals – Qualified or nonqualified

MYTH 3

The Beneficiary of a 529 Plan account may only be changed to a blood relative in the same generation.

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FACT 3

The Beneficiary of a 529 Plan account may be changed to anyone related by blood, marriage or adoption of any age in any generation.

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FLEXIBILITY

Beneficiary Changes: Member of the Family Defined

The prior Beneficiary's:

- Son or daughter or descendent of either
- Stepson or stepdaughter
- Brother, sister, stepbrother or stepsister
- Father or mother or ancestor of either
- Stepfather or Stepmother
- Niece or nephew

FLEXIBILITY

The prior Beneficiary's con't:

- Aunt or uncle
- Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law
- Spouse of any of the above
- First cousin
- Child includes a legally-adopted child
- Brother or sister includes brother or sister by half-blood

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MYTH 4

The money in a 529 Plan account must be distributed before the Beneficiary reaches age 30.

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FACT 4

529 Plans have no time or age restriction*

MYTH 5

529 plans have income limits.

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FACT 5

529 Plans have no income limits

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MYTH 6

A withdrawal from a 529 Plan account must be used for college expenses or will be subject to penalty.

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FACT 6

Only the earnings portion of a Non-Qualified withdrawal from a 529 Plan account is subject to tax and penalty.

TREATMENT OF WITHDRAWALS

The Owner may take two types of withdrawals:

- Qualified withdrawals – in which the money is used for Higher Educational Expenses
  - Free from federal and state income tax

- Non-Qualified withdrawals – in which the money is not used for Higher Educational Expenses
  - Subject to ordinary income tax, plus a 10% federal penalty – on the earnings portion of the withdrawal only.

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MYTH 7

When making a Non-Qualified withdrawal from a 529 Plan account, earnings come out first.

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FACT 7

Withdrawals from a 529 Plan account come out Pro-Rata

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EXAMPLE

Tax treatment of Non-Qualified withdrawals

- Withdrawal amount is $30,000
- From an account which grew to $150,000 on contributions of $100,000
- The earnings portion of the withdrawal would be 1/3 or $10,000
  - Account Owner is in the highest tax bracket
  - If the Beneficiary's income tax rate is 10% federal tax would be $1,000 and the 10% federal penalty would be an additional $1,000, for a total of $2,000*

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MYTH 8

A Non-Qualified withdrawal, such as one used for medical expenses, is always subject to tax penalty.

FACT 8

A 529 Plan account withdrawal, used to pay medical expenses of a disabled Beneficiary, is exempt from the normal 10% federal penalty.

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MYTH 9

All 529 Plans have balance limits

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FACT 9

No 529 Plans have balance limits; an account can grow in perpetuity to any amount.

EXAMPLE

Setting up a Legacy College Fund

Clients can fund a 529 Plan Account that can benefit multiple generations

- Step 1: Fund a single account with $400,000 for a grandchild.[1] In 18 years, the account may grow to approximately $1,077,109[2].
- Step 2: In years 19-22, Account Owner withdraws $433,191 for college tuition and expenses for the grandchild – the original Beneficiary.[3]
- Step 3: In subsequent years, Account Owner changes the Beneficiary to great g1. grandchildren and future generations

1. Contributions in excess of the annual Gift Tax Exclusion ($17,000 for individuals, $34,000 for joint clients) or the Section 529 5 year "Forward Gifting" provision limits ($85,000 for individual or $170,000 for joint filers) – would be deducted from the Giftors lifetime Unified Credit.
2. For illustration purposes only, assumes an average annual growth rate of 6%, does not represent the returns of any 529 Plan portfolio.
3. The Cost of Attendance in year 18 r=represents the national average of a 4-year degree from a public (out-of-state) college of $45,240, adjusted for hypothetical 5% rate of tuition inflation over 18 years, Source: Ma, Jennifer and Matea Pender (2022), Trends in College Pricing and Student Aid 2022, New York: College Board. © 2022 College Board.

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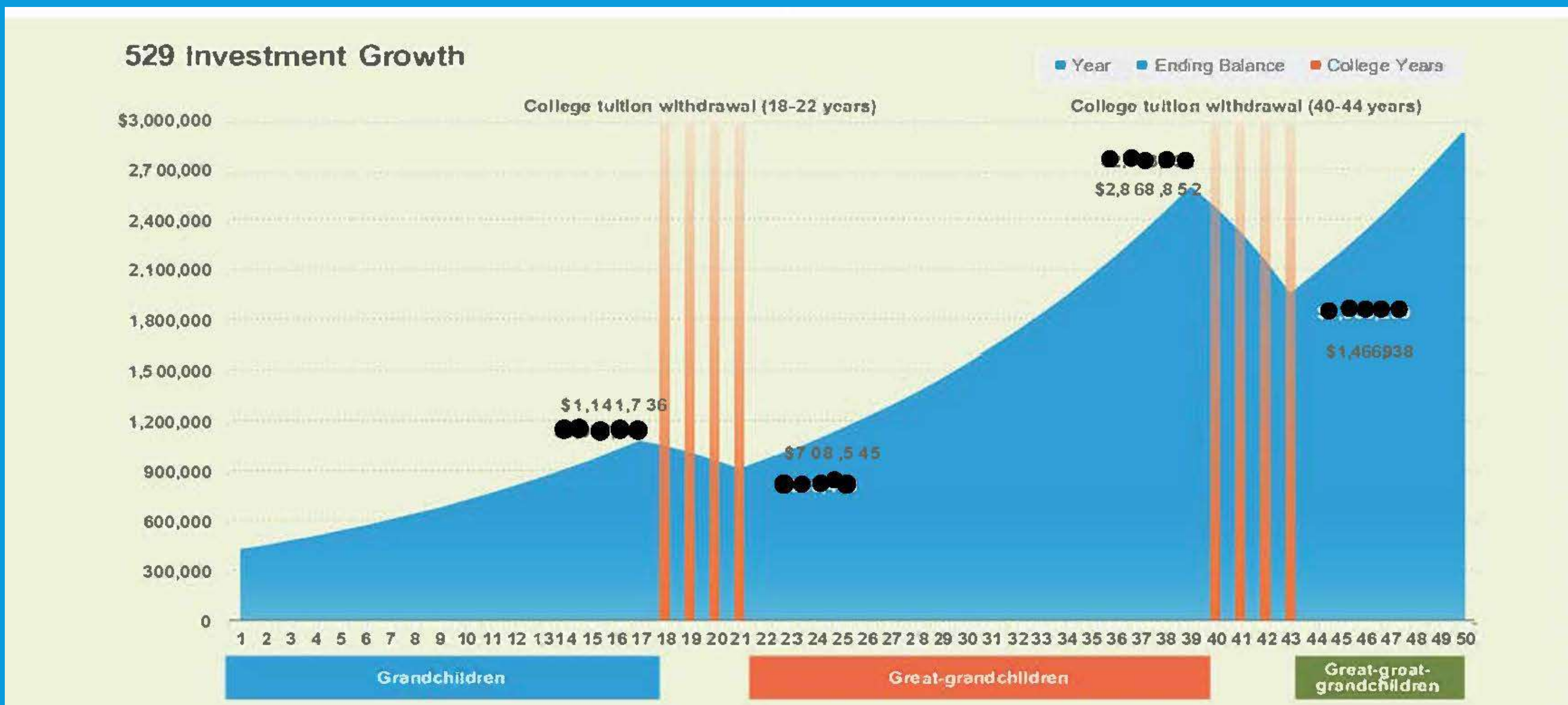
EXAMPLE



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MYTH 10

A 529 Plan Account Owner can only gift $18,000 per year - $36,000 if filing jointly 2024

GIFT TAX EXCLUSION

- Annual Exclusion – Any individual may give up to $17,000 per year per beneficiary – without paying federal gift tax or using their Unified Gift Credit; $36,000 per year for joint filers(2024).*
- "Accelerated or Forward Gifting" – Through a special 529 provision, Owners may effectively use five years of their annual gift tax exclusion all at once:
  - $90,000 for individual filers (2024)
  - $180,000 for joint filers (2024)**

*The current (2023) Annual Gift Tax Exclusion amount is $17,000.

** In any year during which your 529 contributions for a particular beneficiary exceed the Annual Gift Tax Exclusion amount, you may make an election on Form 709 to spread the contributions ratably over five years (20% per year) for gift-tax purposes. This permits frontloading of up to $85,000 (in2023) per beneficiary or $170,000 for a married couple into a 529 plan without generating a taxable gift, assuming no other gifts to that beneficiary are made during the five =calendar –year period. If you make the five=year election and die before the fifth calendar year, the contributions allocated to the years after your death are included in your taxable estate.

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GIFT TAX: CAVEAT

"Accelerated" or "Forward-Gifted contributions are outside the Owner's taxable estate, unless:

- The Contributor passes away within the **5-year** timeframe, in which case Forward-Gifted contributions amounts – excluding any earnings- will be added back to the taxable estate.*
- Beneficiary still has no access to the monies; Ownership is dictated by a previously designated Successor Owner or the Executor of the Owner's Estate.

* Source Internal Revenue Code 529(c)(2) (B).

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MYTH 10

Using one's 529 5-year forward gifting provision will reduce the Lifetime Unified Credit

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FACT 10

Investors can take advantage of the 529 5-year forward-gifting provision and keep their Unified Credit intact.

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EXAMPLE

Gifting After a Liquidity Event

Irving and Rhonda: 81 years old – who have 7 children (some married), 15 grandchildren (some married), and 6 great-grandchildren – sold their business for $30 million.

- They contribute $170,000 to a 529 account for each child, grandchild, great-grandchild – and the spouses of each, if married - - 34 accounts for a total of $5,780,000.
- They remove $5,780,000 from their estate using the 5-year forward-gifting provision.
- They keep their Unified Credit intact
- No gift tax consequence for Irving and Rhonda, so long as they do not make additional gifts to the same beneficiaries over the 5-year period and live into the fifth year.

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MYTH 11

The maximum a 529 Plan Account Owner can gift to a single Beneficiary is $190,000 2024

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FACT 11

A 529 Plan Account Owner can make unlimited gifts.

*There is no maximum ScholarShare 529 contribution limit. However, there is an overall maximum account balance limit of $529,000, which applies to all ScholarShare 529 accounts opened for a beneficiary. Accounts that have reached the maximum account balance limit may continue to accrue earnings.

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ESTATE TAX: 2018 RULE CHANGE

Lifetime exemption ("Unified Credit") was increased

- Lifetime exemption is now
  - $13.6 million 2024
  - $27.22 million joint 2024
- Note: An annual gift tax exclusion does not count against an individual's Lifetime Unified Credit.

EXAMPLE

Ideal Prospects:
- ❑ Clients whose adult Children have not saved Their children's education.
- ❑ Clients with a net worth under $20 million

Using the Lifetime Unified Credit

George and Helen, a married couple with three adult children contribute $529,000 to a 529 Plan for each of their six grandchildren – soon to attend college.

- They immediately remove $3.420 million from the taxable estate.
- Their account makes a "Note to File" that their Unified Credit is to be reduced by $3.42 million
- George and Helen – while they are still alive – get to see their grandchildren benefit from their gift.

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MYTH 12

Transferring Ownership of a 529 Plan is a taxable event

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MYTH 12

Transferring Ownership of a 529 Plan is not a taxable event.

Note: Federal law does not specifically address the tax treatment of a transfer of ownership of a 529 account. You need to consult your tax advisor to fully understand any consequences.

MYTH 13

An Account Owner is bound by the Contribution Limit of the 529 Plan.

FACT 13

The Contribution Limits aggregated by Beneficiary applies only to accounts sponsored by the same state.

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CONTRIBUTION LIMITS

- All states have maximum contribution limits, the lowest of which are Mississippi and Georgia, at \$235,000 per beneficiary. North Dakota is the next lowest, with a maximum of \$269,000.7
- On the high end, states such as Idaho, Louisiana, Michigan, and Washington, as well as the District of Columbia, have maximum limits of \$500,000. Pennsylvania's limit is \$511,758, New York's is \$520,000, and California's is \$529,000.7
- Once the limit is reached, any contributions made to the account are not accepted and will be returned to the investor.

- College Savings Plans Network. "Find My State's 529 Plan."

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EXAMPLE

Multiple Accounts for the Same Beneficiary

Clients can exceed the Contribution Limit of a single funding 529 Plan accounts – for the same multiple states:

- Account #1/ State A. Fund an account with $400,000 - - the Contribution Limit for State A – for a grandchild.*
- Account #2/State B. Fund a second account with $300,000 – the Contribution Limit State B – for the same grandchild.*

*Contributions in excess of the annual Gift Tax Exclusion o the Section 529 "Forward-Gifting" provision limits – would be deducted from the Giftor's Lifetime Unified Credit.

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MYTH 14

529 Plan Accounts can not be owned by Entities such as Trusts.

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FACT 14

529 Plan Accounts can be owned by Entities such as Trusts.

TRUST OWNED 529 PLANS

Leveraging a 529's tax advantage

- Eliminates any year-over-year taxes on earnings
- Maximizes the after-tax return on assets in Trust education
- Potentially simplifies the Trust's investment policy
- Potentially helps offset expenses of the Trust (administrative fees, accounting costs, attorney fees, custody charges, court fees, etc.)
- Helps to ensure assets are ultimately used for higher education or for the benefit of the child who receives the tax-deferred growth

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MYTH 15

Assets in a 529 Plan account can be seized by Creditors

FACT 15

529 Plan accounts assets are protected from Creditors and Bankruptcy.*

*For contributions made more than a year, but less than two years, the first $5,000 contributed is kept out of the estate, and any contributions made during the last year will be included in the estate. Exclusions also depend on the beneficiary having specific familial relationships for the settlor and the contributions being within the allowed 529 limits.

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CREDITOR AND BANKRUPTCY PROTECTION

Two forms of protection:

If the contributions were made more than two years prior – and neither Account Owner or the Account Owner's spouse are not the named beneficiary – all assets in the 529 accounts are protected from creditors:

- At the state level, for Colorado residents the law does not exempt Accounts and Account assets from tax levy, garnishment, attachment or similar orders from the IRS.
- For all – regardless of residency – under the Federal Bankruptcy Protection Act of 2005. Contributions made more than a year but less than two years, the first $5,000 contributed is kept out of the estate, and any contributions made during the last year will be included in the estate. The exclusion also depend on the beneficiary having specific familial relationships to the settlor and the contributions being within the allowed 529 limits.

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EXAMPLE

Bankruptcy Protection

- When a married couple, Peter and Cynthia, who are real estate developers, contributed $150,000 to a 529 plan for each of their 5 young children – a total of $750,000 from their estate.
- Unfortunately, two years later, one of their developments failed and they were sued and were forced into bankruptcy.
- Under the Federal Bankruptcy Protection Act, all the assets in their children's 529 Plan Accounts were protected from creditors.

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MYTH 16

A 529 Plan account hurts the Beneficiary's chances of receiving federal student aid.

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FACT 15

Only the assets and income of the Parent and the Student are expected to be contributed to the cost of attendance.

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FINANCIAL AID IMPACT OF 529 PLANS

FAFSA's Expected Family Contribution (EFC) calculation

	Assets[1]	Income[2]
Student	20%	50%
Parents	Up to 5.6%	22% - 47%

1. Total cash balance of cash, savings and checking accounts; net worth of investments, excluding the home in which parents and student live; net worth of parent and student businesses and/or investment farms, excluding family farms or businesses with 100 or fewer full-time or full-time equivalent employees. Net worth means current value minus debt. Source FAFSA, 2019
2. Income includes the adjusted gross income from the parents' and students' Forms 1040 along with certain other items representing untaxed income and benefits(e.g. untaxed portions of IRA distributions and veteran on-education benefits, such as disability. Source FAFSA 2019

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FINANCIAL AID IMPACT OF 529 PLANS

- Third-party-owned 529 plans(e.g. grandparents) are treated differently:
- Assets are not considered at all in the EFC calculation
- Distributions are considered the income of the student

	Assets[1]	Income[2]
Parent	Up to 5.6%	0%
Third Party	0%	50%

1. Total cash balance of cash, savings and checking accounts; net worth of investments, excluding the home in which parents and student live; net worth of parent and student businesses and/or investment farms, excluding family farms or businesses with 100 or fewer full-time or full-time equivalent employees. Net worth means current value minus debt. Source FAFSA, 2019
2. Income includes the adjusted gross income from the parents' and students' Forms 1040 along with certain other items representing untaxed income and benefits (e.g. untaxed portions of IRA distributions and veteran on-education benefits, such as disability.) Source FAFSA 2019

FINANCIAL AID IMPACT OF 529 PLANS

- https://thecollegeinvestor.com/38170/529-plan-affect-fafsa-financial-aid/

Account Owner (Current Rules)	Reporting As An Asset	Qualified Distributions
Dependent Student (Custodial 529 Plan)	Parent Asset	Not Reported
Dependent Student's Parent	Parent Asset	Not Reported
Independent Student	Student Asset	Not Reported
Anyone Else (Grandparent, Aunt, Uncle, Cousin, Non-Custodial Parent)	Not Reported	Not Reported

NONQUALIFIED DISTRIBUTIONS

- The earnings portion of a non=qualified distribution will be included in the recipients adjusted gross inome on their 1040, regardless of who owns the account.
- Income may or may not be reported on the FAFSA depending on who receives it :
  - If the non-qualified distribution is paid to the student or paid directly to the college, it's included in the student income.
  - If the non-qualified distribution is paid to the account owner, it's included in the account owner's income.

So if a dependent student's parent is the account owner, the non-qualified distribution will be reported in the parent income on the FAFSA. But is the account owner is anyone else, it will not be reported as income on the FAFSA.

https://thecollegeinvestor.com/38170/529-plan-affect-fafsa-financial-aid/

SECURE ACT 2 & 529 PLANS

- Beginning January 2024, 529 plans may be used to fund a Roth IRA for the same beneficiary.
  - 529 plan must be in existence for at least 15 years (2009)
  - The beneficiary of both the 529 and the Roth IRA must be the same person
  - The amount of the rollover is limited
    - Annual contributions are limited to IRA contribution amounts, minus any IRA contributions already made
    - There is a lifetime aggregate rollover limit of $35,000
    - Rollovers may not include contributions (or earnings on those contributions made in the last 5 years

https://my529.org/secure-2-0-and-529s-what-we-know/

ESTATE PLANNING BENEFITS OF 529 PLANS

- Reduce exposure to Estate Tax
  - Contributions are considered completed gifts – not subject to estate tax
- Retain control
  - Ensure assets are spent on education as distributions are controlled by the Account Owner, not the Beneficiary – even once 18 and/or in school.
  - Changes in Beneficiary – including to self – can be easily made without tax consequences
  - Daily access and liquidity – can take the money back if needed (e.g. for unforeseen medical expenses).
  - Similar benefits of a revocable trust.
- No Expiration Date
  - In most 529 Plans, there is no distribution requirement date, so accounts can grow tax-deferred for generations

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ESTATE PLANNING BENEFITS OF 529 PLANS

- Substantial contributions can be made at any time
  - Can use not only annual exclusion – also Forward-Gifting and Unified Credit
  - Non need to wait until the child is in college – or even born yet – thus, removes mortality risk, generate tax-free/deferred income
- Money can be used to pay medical expenses
  - No subject to 10% federal penalty in the event beneficiary is disabled
- Wealth can be transferred
  - Change of ownership and subsequent withdrawals can be done in a manner resulting in little or no tax penalty
- Mitigate tax paid by trust
  - Make the trust an owner of a 529 Plan to lower or eliminate taxes

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ESTATE PLANNING BENEFITS OF 529 PLANS

- Money can be protected from Creditors
  - All assets in the account for two years or more are protected
- Tax-deferred growth
  - Regardless of the eventual use of the funds
  - No cap gains tax, net investment income tax or AMT
- No income limit
  - Useful for clients of all net worth values
- No age limit
  - In all but Virginia sponsored 529 Plans
  - Never a required minimum distribution (RMD)

QUESTIONS?

Thank you for allowing me to speak. I look forward to seeing you at Disneyland October 20-24th for our

61st Annual Advanced Strategies in

Estate Planning Conference

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- Morgan Stanley Smith Barney LLC does not accept appointments nor will it act as a trustee but it will provide access to trust services through an appropriate third-party corporate trustee.
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- The Morgan Stanley Global Impact Funding Trust, Inc. ("MS GIFT, Inc.") is an organization described in Section 501(c) (3) of the Internal Revenue Code of 1986, as amended. MS Global Impact Funding Trust ("MS GIFT") is a donor-advised fund. Morgan Stanley Smith Barney LLC provides investment management and administrative services to MS GIFT.