



FYI Income 44

State Tuition Program Contribution Subtraction

Tuition Program Contributions

A taxpayer can deduct on their Colorado income tax return the payments or contributions made to certain "qualified state tuition programs." [§39-22-104 (4) (i), C.R.S.]. They cannot take this deduction if the payments or contributions were not included in their federal taxable income.

What is a Qualified State Tuition Program?

For purposes of this subtraction, a qualified state tuition program is a "529 College Savings Plan" administered by CollegenInvest and includes the Direct Portfolio College Savings Plan, Scholars Choice College Savings Program, Smart Choice College Savings Plan, and Stable Value Plus College Savings Plan.

Improper Distributions

The principal amount of any money deposited into a qualified state tuition program is generally not taxable when withdrawn or distributed. However, the withdrawal or distribution will be taxable in the year withdrawn if -

1. the taxpayer previously deducted the payments or contributions on a Colorado income tax return, **and**
2. the withdrawal is *not* made for one of the following purposes:
 - to pay qualified higher education expenses (as defined in section 529(e)(3) of the Internal Revenue Code),
 - as a result of the beneficiary's death or disability, or
 - as a result of receiving a scholarship and as long as the amount of distribution, refunds, or withdrawals made do not exceed the amount of the scholarship provided during such tax year.

The amount of any taxable withdrawal or distribution must be added to taxable income on Form 104 on the "other additions" line in the year the distribution is received.

Similarly, if a taxpayer uses these funds to pay the education expenses of someone other than the designated beneficiary, the funds become taxable in Colorado -- even if the expenses otherwise qualify as higher educational expenses.

Common Questions

States other than Colorado have qualified tuition programs. Can a taxpayer subtract on the Colorado income tax return the payments or contributions made to a qualified tuition program of a different state?

No. Only subtract payments or contributions made to a qualified state tuition program established by CollegenInvest or to a qualified tuition program affiliated with a Colorado education institution. As of the date of this publication, CollegenInvest is the only qualified tuition program in Colorado.

Federal tax law permits an individual to rollover their investment from one state qualified tuition program to another state qualified tuition program. If the individual does a rollover into one of Colorado's state qualified tuition programs is this considered a contribution that qualifies for the Colorado tax deduction?

No. Since the funds being rolled over into the Colorado state qualified tuition program are not included in federal taxable income for the tax year, a deduction is not allowed.

If an individual does a rollover between two CollegenInvest programs, will the rollover amount qualify for the subtraction?

No. Since the funds being rolled over into another program are not included in federal taxable income for the tax year, a deduction is not allowed.

If an individual takes a Colorado tax deduction and does a rollover to another state qualified tuition program (not a Colorado program) but eventually uses all disbursements for payment of qualified higher education expenses, are they subject to recapture of the deduction?

Yes. An amount withdrawn from a qualified Colorado tuition program and rolled over into another state qualified plan tuition program must be added into Colorado taxable income (recaptured) in the year of the rollover.

There is a provision in the Colorado statute that states no exclusion will be allowed pursuant to this paragraph to the extent such payments or contributions are excluded from the taxpayer's federal taxable income for the taxable year. This provision suggests that an individual contributing money from a savings account [monies earned in prior year(s)] would not be eligible for a Colorado tax deduction. Is this true?

No. Provided the taxpayer has sufficient income during the tax year to cover the contribution, there is no way to determine whether a taxpayer has used current year funds or prior year savings to actually make the contribution.

Can an individual receive a tax deduction if they contribute to an unrelated individual's contract?

Yes. There is no requirement that the beneficiary be related to the contributor.

Is there a limit to how much a taxpayer can subtract on a Colorado income tax return for payments or contributions?

No. However, the qualified state tuition program limits the amount of payments or contributions that can be made to the program. This, in turn, will limit the subtraction.

How to receive additional information on CollegeInvest and the plans that they offer?

Contact CollegeInvest at www.collegeinvest.org or call 800-448-2424

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