HOOK LAW CENTER NEWS

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Will My Grandchildren Be Able To Afford To Go To College?

by Elizabeth Q. Boehmcke, Esq.

The Labor Department has reported that the price index for college tuition grew by almost 80% from 2003-2013, more than twice as fast as the consumer price index over the same period. Although there are indications that the rate of growth is slowing, many Americans are faced with real sticker shock when, according to the College Board, the average tuition and fees at in-state public colleges for the 2013–2014 academic year was $22,826. Private college tuition averaged $44,750. Although all the parents I know hope their children will qualify for merit or need-based scholarships, the reality is that many Americans will be faced with a gap between the real costs of attending college and the amount of financial aid offered to their children. As a result, parents need to finance the difference out of current income, savings or by taking loans, or their children will have to take on the burden of student loans to finance the difference on their own. However, worried parents and grandparents can ease the looming burdens by taking advantage of the benefits of creating and funding 529 plans for the benefit of their children and grandchildren.

529 plans are tax-advantaged investing and savings vehicles that offer current income tax savings in the form of state income tax deductions in Virginia. Virginia taxpayers who are account owners may deduct contributions to Virginia's 529 plans up to $4,000 per account per year from their Virginia state income tax returns with unlimited carry forwards to future tax years. This means that if you, as Virginia resident, create a 529 plan for a child or grandchild and fund it with $12,000 in Year 1, you may deduct $4,000 from your taxes in each of Year 1-3. If you are at least 70 years of age, the entire amount of your contribution (if you are the account owner) is deductible on your Virginia state income tax return in Year 1.

Additionally, the accounts grow income tax free and distributions from the accounts are income tax free to the beneficiary so long as they are used for qualified higher education expenses. A qualified higher education expense includes, among other things, tuition, books, fees, and certain room and board expenses. Like all good things, however, there is a penalty for withdrawals that are not used for qualified higher educational expenses: not only is the excess withdrawal subject to income tax, but it is also subject to a 10% penalty tax. However, for many families, the flexibility built into the 529 plans that allow for beneficiary changes significantly reduce the chances of incurring

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Will My Grandchildren Be Able To Afford To Go To College? (cont'd)

the penalty.

Under Virginia's 529 plans, one beneficiary may have account balances valued up to $350,000 across all accounts for his/her benefit in 529 plans. If the beneficiary does not fully utilize all the assets in his/her account (perhaps because of a scholarship or change in educational plans), the account owner can change the beneficiary of the account to another member of the beneficiary's family without incurring any gift tax consequences if the new beneficiary is assigned to the same or higher generational level as the original beneficiary for generation-skipping transfer tax ("GST") purposes. Thus, you can change the beneficiary of the 529 plan to a sibling (or a parent) of the original beneficiary (or roll the plan into a 529 account previously created for the sibling) without making an additional taxable gift. Importantly, Virginia's 529 plans can fund qualified higher education expenses in any eligible educational institution all over the world, not just Virginia.

The value of a 529 plan is generally not includible in the estate of the contributor of the funds or in the estate of the beneficiary for estate tax purposes. Thus, contributions to a 529 plan eliminate not only the assets from the donor's estate, but also all the growth in the assets over time. Because contributions to a 529 plan are considered completed gifts for gift and GST tax purposes, such contributions qualify for the annual gift tax exclusion (currently $14,000 per donee per year). This means that no gift or GST tax is imposed on transfers by a grandparent to a 529 for the benefit of a grandchild in amounts up to the annual gift tax exclusion. Additionally, you can make a contribution of up to $70,000 to a 529 account for one beneficiary and elect to treat the contribution as made ratably over a five calendar-year period for gift tax purposes. This allows you to utilize as much as $70,000 in annual exclusions to shelter a larger contribution made in Year 1. However, if the donor dies before the end of the five years, the ratable portion of the contribution not yet excluded will be included in the donor's estate. This poses a GST tax issue that would require allocation of GST exemption to the transfer. For the vast majority of American families, the GST exemption (currently $5.34 million) will be more than adequate to shelter any such contingencies.

What does all this mean for the worried parent or grandparent who wants to help fund their families' college dreams? The income tax benefits are likely the single most important aspect of 529 plans for saving for college. Because the assets grow income tax free, creating accounts at the earliest opportunity affords the greatest time for that tax free growth. Furthermore, the ability to change beneficiaries within the family creates flexibility to meet changing needs over time. Finally, 529 plans are treated generously as family assets for federal financial aid purposes and thus assessed at a maximum of 5.64% for calculating the Expected Family Contribution. This is a tremendous improvement over assets held in the student's name which are assessed at 20%. Virginia offers four different plans. We are happy to discuss the benefits of different plans for your family as part of your overall estate planning. As a certified financial planner, Andrew H. Hook is particularly well suited to assist you and your family with setting and achieving your financial goals while maintaining a coherent and workable estate plan.

Photo Project

Hook Law Center: Kit Kat, how did a photo project lead to more pet adoptions?

Kit Kat: Well, it happened like this. In North Carolina, in December of 2013, The Humane Society of the US (HSUS) N.C. director arranged for a photographer (Shannon Johnstone) and herself (Kim Alboum) to make a swing through rural areas of the state. Shannon was to take photos of 8 shelters and highlight the work they do. The project turned out to be a resounding success! The photos were then exhibited in Raleigh, and lots of people came to view them. Photos were also posted to social media. They saw some wonderful things like super-clean cages, kitty toys made from cardboard boxes, hairbrushes strategically attached to enclosures so the cats could groom themselves, etc. It made people realize the tremendous work these shelters were doing with very limited resources.

As a result of the publicity, money and supplies poured in. You can see for yourself some of the photos at supportshelters.org. However, more importantly, the publicity resulted in a spike in adoptions of both cats and dogs. In all 27 animals were adopted that otherwise might never have had a chance at living in a real home. For example, Jax, a small brown dog, was adopted by someone in Arizona after seeing his picture on Facebook. The wonders of the internet never cease, and of course, the creativity of the HSUS staff in creating this project is incredible! (Ruthanne Johnson, "In a Flash," All Animals, Nov.-Dec. 2014, p. 11)

Upcoming Events

- **December 2, 2014** - Hook Law Center is sponsoring Senior Advocate's Active Aging Series at Westminster Canterbury, 3100 Shore Drive, Virginia Beach VA 23451. HLC Attorney Shannon Laymon-Pecoraro will provide an overview of Hook Law Center's Practice Areas at the meeting which begins at 10:00 a.m. To RSVP, please call Senior Advocate at 757-645-6364. *RSVP responses will be taken on a first-come, first-served basis.* Each session includes a complimentary lunch. We look forward to seeing you there!
- **January 22, 2015** – Andrew Hook will be speaking to the Portsmouth Community Criminal Justice Board regarding how the aging population may affect the court system.
- **January 29 – 31, 2015 -** Andrew Hook will attend the NAELA Summit in Newport Beach, California.
- **February 3, 2015 –** Andrew Hook will be speaking at King's Grant House regarding Long-term Care Insurance.
- **February 7, 2015 –** Shannon Laymon-Pecoraro will be speaking to the Down Syndrome Association of Hampton Roads' Baby Play Group.
- **February 20-21, 2015** – Andrew Hook will be speaking on Managing a Small Law Firm at the 2015 VAELA *Un*Program in Charlottesville, VA.

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