

State of Rhode Island - Division of Taxation

Personal Income Tax

Regulation PIT 90-02

Family Education Accounts - Qualified Depositories

I. GENERAL

In accordance with section 44-30-25 of the Rhode Island General Laws, any qualified depository may accept deposits as family education accounts.

II. DEFINITIONS

A. Family education account means an account created by an individual taxpayer for the purpose of providing qualified educational benefits to a qualified beneficiary. The account must be with a qualified depository and must be created by a written instrument prescribed by the Tax Administrator that clearly designates that the account is a family education account. The assets of the account cannot be commingled with other property except in a common trust fund or common investment fund of that qualified depository.

1. Account Type, Amount and Source of Funds

A family education account is set up by an individual taxpayer; and therefore, family education accounts cannot be set up as joint accounts. While the tax benefit (modification) may be used on a jointly filed Rhode Island personal income tax return, only one individual is considered to be the "taxpayer" depositor who sets up the account.

Providing that the above qualifications are met, a family education account may be of any type commonly offered depositors of the qualified depository and may bear any terms or conditions, maturities or deposit insurance commonly associated with other deposits or savings plans in accordance with the laws of the State of Rhode Island. For example, a family education account may be a passbook savings account, a credit union account, a certificate of deposit, a term savings account, etc. The family educational account has no required maximum amount or required term of existence except that the account balance is deemed distributed in accordance with section 44-30-25(a)(3). The account may be established with funds from other types of savings or trust vehicles either of the taxpayer or of a qualified beneficiary.

Since a trust does not have a qualified beneficiary, a trust cannot establish a family education account.

B. Qualified depository means:

1. Any national bank, federal savings and loan association, federal savings bank, federal insured credit union, or other institution chartered by the United States of America authorized to accept deposits which has its principal business office in the State of Rhode Island; and

2. Any institution incorporated under the laws of the State of Rhode Island authorized to accept insured deposits; and
3. Any other person who demonstrates to the satisfaction of the Tax Administrator that it will administer the account in a manner consistent with the requirements of this state for the purposes of enforcing these requirements.

Any person seeking status as a qualified depository within sixty (60) days must first comply with B-3 above before accepting any deposits as family education accounts.

III. ROLLOVERS, TRANSFERS AND DISTRIBUTIONS

A. Rollovers

If the type of account established by the depositor/taxpayer as a family education account has a maturity, the account may be "rolled over" at its maturity into another family education account of any type at the qualified depository within 60 days without recapture or, at its maturity, the account may be transferred to a family education account at a different qualified depository without recapture if the provisions for transfer are followed.

B. Transfers

When the depositor makes a withdrawal from a family education account for the purpose of transferring all or part of the account to a different qualified depository, the depositor should be informed that the transfer must be made within sixty (60) days of the withdrawal to avoid a nonqualified withdrawal.

EXAMPLE: Martha (taxpayer/depositor) wanted to withdraw \$1,000 from her family education account to deposit it in a different qualified depository. Informed that such transfers had to be made within sixty (60) days, she deposited the funds the same week in a family education account in the new qualified depository. Had she taken more than sixty (60) days, the amount withdrawn would have been a nonqualified withdrawal subject to recapture.

C. Distributions

The account is deemed distributed to the taxpayer/depositor not later than the last day of any taxable year of the taxpayer unless the beneficiary remained qualified with respect to the taxpayer on at least one day during the year. For those accounts where the depositor/taxpayer is also the qualified beneficiary, no contributions may be made to the account after the taxpayer becomes 21 years old. For those accounts where the depositor/taxpayer is not also the qualified beneficiary, no contribution may be made to the account unless the beneficiary is a dependent of the taxpayer.

IV. REPORTING

Section 44-30-58(c) empowers the Tax Administrator to prescribe regulations and instructions for informational returns to be filed. The establishment of a family education account by a depositor/taxpayer and its acceptance by a qualified depository will require that an informational return described below be filed with the Division of Taxation.

A. Information

The qualified depository shall retain and report information about all family education accounts maintained by its depositors. This information should include:

1. The name, address and social security number of the depositor/taxpayer.
2. The name, address and social security number and relationship of the depositor's qualified beneficiary named on the account.
3. The amounts of income attributed to the family education account for the tax year.
4. The amounts of all deposits to the family education account for the tax year.
5. The amount of all withdrawals and distributions from the family education account for the tax year.

Information for family education accounts of each type offered by the qualified depository will be reported to the Tax Administrator separately from any report concerning the same type of account offered by the depository. For example, information regarding family education accounts which are passbook savings accounts should be reported separately to the Tax Administrator from other types of informational reporting.

When the taxpayer/depositor transfers funds from one family education account to another such account at the same qualified depository, both the withdrawal and deposit should each be reported in each separate account by the depository.

B. Netted Reporting

For a year in which the taxpayer/depositor has both deposits and withdrawals to his/her family education account, the qualified depository will show the deposits and withdrawals separately (not "netted") in its report to the Tax Administrator.

C. Form of Reporting

Information required to be retained and reported shall be reported on or before the due date on a printed form for each family education account maintained by the taxpayer/depositor; two (2) copies of which will be sent to the taxpayer/depositor (one for the taxpayer/depositor's records and one for the taxpayer/depositor to attach to his/her Rhode Island personal income tax return); one copy of which will be sent to the Tax Administrator; and the final copy of which must be retained by the qualified depository as proof of compliance.

The qualified depository must demonstrate compliance in its mailing of forms to taxpayer/depositors by mailing the forms to the last address for the taxpayer/depositors known to the depository.

D. Due Date

Reporting required to be made to the taxpayer/depositors and to the Tax Administrator for the preceding calendar year shall be made to the taxpayer/depositors and to the Tax Administrator on or before February 28 of the succeeding year.

E. Penalties

All penalties including those for willful failure to file, provided under Title 44, Chapter 30 of the Rhode Island General Laws, as amended, are applicable to family education accounts.

F. Waiver of Other Informational Reports

Reporting for family education accounts to taxpayer/depositors and to the Tax Administrator described herein shall not be waived by the waiver of other types of informational reports that may be waived on a year-to-year basis by the Tax Administrator.

The qualification and reporting required of any entity as a qualified depository is solely the responsibility of the entity accepting or seeking to accept deposits as family education accounts in Rhode Island.

CROSS REFERENCE: [REGULATION PIT 90-1](#) - FAMILY EDUCATION ACCOUNTS - TAXPAYERS. ALSO SEE FORM FEA AGREEMENT.

R. GARY CLARK
TAX ADMINISTRATOR

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