

# **Saving For College Using § 529 Plans Changes on the Horizon**

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President Obama has set a goal that by 2020 the United States should lead the world in the proportion of adults that hold a college degree.<sup>i</sup> It has been recognized by the Administration that the ability to afford a college education, particularly by low and middle income taxpayers, presents a real challenge. One reason for this is that the cost of college has been increasing faster than family income and the general cost of living. In order to assist taxpayers in saving for college, Congress authorized the use of tax-favored savings plans. These plans are known as “529 plans” for the Internal Revenue Code Section that authorized their creation. In April 2009, Vice President Biden’s Middle Class Task Force asked the Treasury Department to examine the use of 529 plans and to study if there are ways to make 529 plans more effective and reliable.<sup>ii</sup> On July 27, 2009, the Treasury Department issued a notice and request for comments pertinent to a report it will issue on 529 plans.<sup>iii</sup> It is expected that the report will recommend changes in the law affecting these plans. The deadline for providing comments was closed on August 14, 2009. This paper will review the current state of the law affecting 529 plans. Under current law, income earned in these plans is exempt from Federal income tax when those funds are used for qualified higher education expenses. Many states grant a deduction from state income tax for contributions made to these plans. The taxpayer making contributions to these plans also maintains the ability to direct how the funds are invested. The paper will examine whether the plans have been successful in achieving their stated goal. The paper will then discuss issues regarding 529 plans raised by the Middle Class Task Force. Questions raised by the Treasury’s July 27<sup>th</sup> notice, including those related to investment options; account fees; and benefits to low- and middle-income families, will also be discussed. Important comments responding to the Treasury notice will be studied to evaluate the strengths and weaknesses in the current law. The paper will conclude with an examination of likely changes to the law, including a review of pending and proposed legislation affecting 529 plans.

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<sup>i</sup> President Barack Obama, Address to the Joint Session of Congress (February 24, 2009).

<sup>ii</sup> Middle Class Task Force Holds Meeting on College Affordability, The White House Press Office, April 17, 2009.

<sup>iii</sup> Report on Section 529 College Savings Plans, 74 Fed. Reg. 37,307 (July 28, 2009).