

**MEMO# 30392**

November 15, 2016

# **Draft Letter to IRS Requesting Guidance on Recontributions to 529 Plans and Application of One-Rollover-Per-Year Rule for 529 Plans**

[30392]

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TO: 529 Plan Advisory Committee  
Tax Committee

Transfer Agent Advisory Committee RE: Draft Letter to IRS Requesting Guidance on Recontributions to 529 Plans and Application of One-Rollover-Per-Year Rule for 529 Plans Attached for your review is a draft letter to the Internal Revenue Service ("IRS") requesting guidance on the administration of recontributed amounts, an enhancement to 529 plans enacted in 2015 as part of the Protecting Americans from Tax Hikes Act of 2015 (the "PATH Act"). The PATH Act added a new subsection to allow a beneficiary who receives a refund of tuition (for example, after being forced to withdraw from school due to an illness) to recontribute an amount that had been withdrawn from a 529 plan, up to the refunded amount. The recontribution would allow the beneficiary to avoid incurring income inclusion or penalties, provided the amount is recontributed within 60 days of the date of the refund.

As you will see in the letter, the College Savings Plan Network ("CSPN") plans to submit a letter to IRS requesting confirmation that recontributed amounts can be treated as new contributions, rather than requiring a portion of the recontribution to be treated as earnings, based on the earnings ratio applied to the amount originally distributed. The Institute's draft letter requests guidance regarding additional questions, should the IRS disagree with CSPN's position. The letter also requests clarification on how the one-rollover-per year rule will be applied to 529 plans, in light of the Tax Court opinion in *Bobrow v. Commissioner*.

Please provide any comments on the draft letter to me (202-326-5809 or [shannon.salinas@ici.org](mailto:shannon.salinas@ici.org)) no later than the close of business on Friday, November 18, 2016.

Shannon Salinas  
Assistant General Counsel

[Attachment](#)

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