

**MEMO# 17081**

February 11, 2004

## **FEBRUARY 20 CONFERENCE CALL TO DISCUSS PRESIDENT'S FY 2005 BUDGET PROPOSALS AFFECTING 529 PLANS**

[17081] February 11, 2004 TO: 529 PLAN ADVISORY COMMITTEE No. 7-04 TAX COMMITTEE No. 5-04 RE: FEBRUARY 20 CONFERENCE CALL TO DISCUSS PRESIDENT'S FY 2005 BUDGET PROPOSALS AFFECTING 529 PLANS A conference call has been scheduled for Friday, February 20, 2004 at 2:00 pm EST to discuss provisions in the President's budget for fiscal year 2005 affecting qualified tuition programs ("529 Plans"). If you would like to participate in this conference call, please complete the attached response form and fax it to Ezella Wynn at 202-326-5841 or e-mail [ewynn@ici.org](mailto:ewynn@ici.org) by Wednesday, February 18, 2004. To participate in the call, please dial 888-730-9136 and enter passcode number 48528. The President's FY 2005 budget includes the attached proposal entitled "Clarify the consequences of changing the beneficiary of a qualified tuition program." Among other things, the proposal would (1) appear to eliminate the donor's full ownership rights in the account, (2) impose an age limit of 35 on 529 Plan beneficiaries, (3) impose a new program-withheld excise tax on nonqualified withdrawals in excess of \$50,000 (35% excise tax on the first \$100,000 in excess of \$50,000 and a 50% excise tax on amounts in excess of \$150,000) and (4) due to the requirement that the excise tax be enforced by program administrators, imposes a requirement that program administrators determine whether a distribution has been used to pay for qualified expenses. The proposal would generally be effective for 529 Plan accounts established after the date of enactment. Additional contributions to existing 529 Plan accounts would be prohibited unless those accounts elect to be governed by the new rules. The budget reintroduces the Lifetime Savings Account ("LSA"), which is very similar to the LSA proposal included as part of the President's budget for FY 2004.<sup>1</sup> This year's LSA proposal lowers the contribution limit from \$7,500 to \$5,000 (indexed for inflation). The LSA proposal permits conversion of balances in Coverdell Education Savings Accounts ("ESAs") or 529 Plans into LSAs. All conversions must be made before January 1, 2006, subject to certain limitations. The amount that may be rolled over to an LSA from a 529 Plan is limited to the sum of (1) the lesser of \$50,000 or the amount in the 529 Plan as of December 31, 2003 and (2) any 1 See Institute Memorandum to 529 Plan Advisory Committee No. 7-03, Operations Members No. 4-03, Pension Members No. 7-03, Tax Members No. 7-03 and Transfer Agent Advisory Committee No. 13-03 (15601), dated January 31, 2003. 2 contributions and earnings to the 529 plan in 2004. Total rollovers to an individual's LSA attributable to 2004 ESA and 529 Plan contributions, however, cannot exceed \$5,000 plus earnings on those contributions. Individuals could also choose to continue to contribute to ESAs and 529 Plans as under current law, and these education accounts could be offered inside an LSA. For example, states could offer LSAs with the same investment options available under the state's 529 plan. Such an LSA would not be

subject to the 529 Plan's reporting requirements, but investors would be subject to the annual LSA contribution limit. Distributions for purposes other than education would not be subject to federal income tax or penalties. States could, however, offer state tax and other incentives for using such LSA funds exclusively for education. The President's budget also includes a proposal to permanently extend the benefits created by the Economic Growth and Tax Relief Reconciliation Act of 2001, including the exclusion of qualified 529 Plan withdrawals, which are set to expire at the end of 2010. Lisa Robinson Assistant Counsel

Attachment (in .pdf format) 3 RESPONSE FORM FOR INSTITUTE CONFERENCE CALL ON "PRESIDENT'S FY 2005 BUDGET PROPOSALS AFFECTING 529 PLANS" Friday, February 20, 2004, 2:00 PM EASTERN Please fax this form by Wednesday, February 18, 2004 to Ezella Wynn, Investment Company Institute at 202-326-5841. To participate in the call, dial 1-888-730-9136 and enter the passcode "48528" on your telephone keypad. Should you need assistance connecting to the call, please dial \*0.

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\_\_\_\_\_ E-MAIL If there are specific issues  
that you would like to discuss during this conference call, please list them below. 1.

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