

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100101	College Savings Accounts - Common Questions

State of Wisconsin
Department of Revenue

College Savings Accounts

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What is the amount of the subtraction allowed for contributions to a college savings account?
2. May I claim a subtraction for a contribution to a college savings account in a state other than Wisconsin?
3. May a person claim the subtraction from income for an amount rolled over from a college savings account in another state into a Wisconsin college savings account?
4. May a person claim the subtraction from income for an amount rolled over from one Wisconsin college savings account to another?
5. Does the annual limit for the college savings account subtraction apply to the person making the contribution or to the beneficiary?
6. Can I claim a subtraction for a contribution to a college savings account where I am both the owner of the account and the beneficiary?
7. Excess contributions for 2014 can be carried forward and subtracted in a later year. Does this apply to pre-2014 excess contributions?
8. Who adds an amount to income when a distribution was not used for qualified higher education expenses?
9. Does the amount rolled over into an ABLE account from a college savings account have to be included in gross income?
10. What are qualified higher education expenses?
11. Is a nonresident of Wisconsin required to include in Wisconsin income the amount of a distribution rolled over to a college savings account in another state?
12. As a practitioner, how will I know whether an Edvest account has been transferred to another state?

1. **What is the amount of the subtraction allowed for contributions to a college savings account?**

Year	Single or Married Filing Joint	Divorced or Married Filing Separate
2019*	\$3,280	\$1,640
2018	\$3,200	\$1,600
2017	\$3,140	\$1,570
2016	\$3,100	\$1,550
2015	\$3,100	\$1,550

*Contributions to a college savings account for 2019 must be made on or before April 15, 2020.

2. **May I claim a subtraction for a contribution to a college savings account in a state other than Wisconsin?**

No. The Wisconsin subtraction for contributions to a college savings account only applies for contributions to a Wisconsin college savings account. The subtraction does not apply for contributions to a college saving account in any other state. The qualified Wisconsin college savings accounts are Edvest and Tomorrow's Scholar.

3. **May a person claim the subtraction from income for an amount rolled over from a college savings account in another state into a Wisconsin college savings account?**

For the 2015 and following taxable years, rollovers of the principal amount into a Wisconsin college savings account are eligible for the subtraction from income, subject to applicable yearly limitations. Amounts in excess of the amount allowed as a subtraction may be carried forward to future years and claimed as a subtraction subject to the yearly limitations.

4. **May a person claim the subtraction from income for an amount rolled over from one Wisconsin college savings account to another?**

For the 2015 and following taxable years, rollovers from one Wisconsin college savings account into another Wisconsin college savings account are **not** eligible for the subtraction from income. A rollover is not eligible for the subtraction from income since the amount of the rollover is not included in federal adjusted gross income. **Note:** This supersedes guidance in Wisconsin Tax Bulletin 128 in January 2002.

5. **Does the annual limit for the college savings account subtraction apply to the person making the contribution or to the beneficiary?**

The 2019 annual subtraction for contributions to a Wisconsin college savings account is \$3,280 (\$1,640 if married filing separate or a divorced parent). This limitation applies to the person who makes a contribution to the account. A beneficiary may have multiple contributions made to their account for the year and the total of all contributions may exceed \$3,280.

6. **Can I claim a subtraction for a contribution to a college savings account where I am both the owner of the account and the beneficiary?**

Yes. Your contributions into a college savings account are eligible for a Wisconsin subtraction even if you are both the owner and beneficiary of the account.

7. **Excess contributions for 2014 can be carried forward and subtracted in a later year. Does this apply to pre-2014 excess contributions?**

No. The carryover provisions do not apply to pre-2014 excess contributions.

8. Who adds an amount to income when a distribution was not used for qualified higher education expenses?

According to Edvest.com, only the owner of an account can request distributions. Therefore, the owner of the account must add to income the amount of distributions received on or after June 1, 2014, that resulted in a federal penalty because the distribution was not used for qualified higher education expenses. The amount to be added to income cannot be more than the total dollar amount contributed to the account for 2014 and thereafter.

Note: If a beneficiary receives a refund of qualified higher education expenses from an eligible education institution, and recontributes those funds within 60 days to a qualified Wisconsin college savings program of which the individual is a beneficiary, the amount of the refund recontributed is not included in Wisconsin income.

9. Does the amount rolled over into an ABLE account from a college savings account have to be included in gross income?

For distributions made after December 22, 2017, the amount rolled over into an ABLE account of the designated beneficiary, or a member of the family of the designated beneficiary, from a college savings account does not have to be included in gross income, unless the amount was previously claimed as a subtraction. You must reduce the amount of carryover available by the amount rolled over which was not previously claimed as a subtraction. The maximum amount rolled over cannot exceed \$15,000.

10. What are qualified higher education expenses?

Qualified higher education expenses include:

- Tuition and fees
- Books, supplies and equipment
- Expenses for special needs services needed by a special needs beneficiary in connection with enrollment or attendance at an eligible educational institution
- Certain expenses for room and board incurred by students enrolled at least half-time
- The purchase of computer or peripheral equipment, computer software, or internet access and related services if it is to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution (not including expenses for computer software for sports, games or hobbies unless the software is predominantly educational in nature)
- For distributions made after December 31, 2017, expenses paid for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school

CAUTION: The private school tuition subtraction may not be claimed for amounts withdrawn from a college savings account used to pay for private school tuition.

11. Is a nonresident of Wisconsin required to include in Wisconsin income the amount of a distribution rolled over to a college savings account in another state?

The requirement to include an amount in Wisconsin income when a distribution from a Wisconsin college savings account is rolled over to a college savings account in another state does not apply when the distribution is made to a nonresident of Wisconsin. Assuming the nonresident has no other income from Wisconsin sources, the nonresident would not be required to file a Wisconsin income tax return.

12. **As a practitioner, how will I know whether an Edvest account has been transferred to another state?**

According to Edvest.com, the owner of the account will receive quarterly and annual account statements which include withdrawals from the account. Withdrawals include outgoing rollovers into another state's account. In addition, Edvest will annually issue Form 1099-Q to the owner or beneficiary (depending on who received the withdrawal).

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 1, 2019: Sections 71.01 and 71.05, Wis. Stats., and 26 U.S. Code § 529.

Laws enacted and in effect after November 1, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 1, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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