

A photograph of a man and a young girl in a kitchen. The man is standing behind the girl, and they are both looking down at their hands as they wash them under a running faucet. The girl has her hair in a ponytail. The background shows a kitchen counter with some plants and a window.

Using a 529 Plan for K-12 Tuition, Transfers to an ABLÉ account, Apprenticeships or to Repay Student Loans: What New Mexico Taxpayers Need to Know

Over the last several years federal law has expanded the definition of “qualified higher education expenses.” However, while the federal definition of this term has expanded, New Mexico has not changed its definition of the term for state tax purposes.

In this article we explain what is considered a qualified higher education expense for federal tax purposes and for New Mexico state tax purposes.

Federal Taxes

The federal definition of qualified higher education expenses has been expanded to include:

- Up to \$10,000 per year for K-12 tuition;
- Transfer up to \$15,000 per year to an ABLÉ account for the beneficiary;
- Apprenticeship expenses; and
- Student loan debt repayment of up to \$10,000 each for the beneficiary and any siblings.

K-12 Tuition

Federal 529 plan rules allow for up to \$10,000 per year to be applied towards elementary or secondary school tuition expenses. It's important to note that the rule allows for tuition expenses only. It does not allow tax-free funds to be used for fees, books, supplies or equipment.

Transfers to an ABLÉ Account

ABLE accounts are savings plans for certain individuals with disabilities. Similar to 529 accounts, the earnings on ABLÉ accounts are not taxed by the federal government. New rules allow you to roll over up to \$15,000 from a 529 account into an ABLÉ account for the same beneficiary.

Apprenticeships

Federal tax law allow you to withdraw money from a 529 account free from federal taxes in order to pay expenses related to apprenticeship programs. The law is effective for distributions made after December 31, 2018. Expenses include fees, books, supplies and equipment required for an apprenticeship program that is registered and certified with the Secretary of Labor under Section 1 of the [National Apprenticeship Act](#).

Student Loan Repayments

Federal law allows you to withdraw up to \$10,000 free from federal taxes in order to pay the principal or interest on a qualified education loan of the beneficiary or a sibling of the beneficiary. If you pay off student loan interest with a 529 plan distribution, it will not be eligible for the federal student loan interest deduction.

The \$10,000 limit is a lifetime limit that applies separately to the beneficiary and each sibling. Up to \$10,000 can be withdrawn from the account for student loan payments for the beneficiary, and an additional \$10,000 can be withdrawn from the account for student loan payments for each sibling of the beneficiary.

New Mexico Taxes

New Mexico currently has a generous 529 incentive for contributions to the state's 529 plan. The full amount of any contributions to a New Mexico 529 plan can be deducted for New Mexico individual income tax purposes.

However, even though the *federal* definition of “qualified higher education expenses” has expanded, New Mexico has not changed its own definition of this term for purposes of the New Mexico state income tax deduction for contributions to New Mexico's 529 plan.

As a result, withdrawals for K-12 tuition payments, transfers to an ABLE account, apprenticeship expenses and student loan repayments will likely *not* be considered qualified higher education expenses under the *New Mexico* tax code.

This means that a withdrawal made for these expenses may be subject to New Mexico state tax recapture if it is attributable to contributions that were **deducted** for New Mexico income tax purposes. If this is the case, the withdrawal amount could be added to the New Mexico taxable income of the taxpayer who took the deduction in the year the withdrawal is made.

New Mexico Deductible Qualified Higher Education Expenses for Post-Secondary Education	Federal Qualified Higher Education Expenses
Tuition and fees	All the expenses listed for New Mexico
Room and board (half-time course load required)	Up to \$10,000 a year for K-12 tuition
Books and supplies	Transfers up to \$15,000 a year to an ABLE account for the beneficiary
Computer technology, equipment, internet access	Apprenticeship expenses
Expenses for educational special needs services	Up to \$10,000 for student loan repayment

We highly recommend that New Mexico taxpayers consult a tax advisor before making withdrawals from a New Mexico 529 plan for K-12 tuition, transfers to an ABLE account, apprenticeship expenses or student loan repayments.

Questions?

For more information, contact The Education Plan at **1.877.337.5268** to speak with a representative or visit [TheEducationPlan.com](#).

