

529 Rollover to Roth IRA

February 2, 2024

Take-Away: Some IRC 529 higher education account balances can now be rolled into a Roth IRA, starting this year. However, there are still some important questions that need to be answered, which means we must await guidance in yet-to-be-published IRS Regulations.

Background: The SECURE Act 2.0, passed a little over a year ago, provided a limited option to rollover unused IRC 529 higher education account balances to a Roth IRA. This rollover option starts this year. Note that the word *limited* is used because there are several conditions to this 529 rollover option. Fortunately, there are no income limits that restrict the rollover of the 529 account to the Roth IRA, either for the 529 beneficiary, or for the 529 owner. A rollover from the 529 plan to the Roth IRA is a nontaxable transaction but, as noted, are several conditions must be met to avoid taxation.

Basic 529 Rollover Conditions: What follows are the conditions and limitations that must be satisfied to roll a 529 balance to a Roth IRA.

1. **Amount:** The maximum amount that can be rolled over is \$35,000. This limitation is a lifetime transfer amount. The amount is not indexed for inflation. However, this maximum amount appears to be per beneficiary. Accordingly, a parent with multiple children could potentially roll over \$35,000 per child to the child's Roth IRA. The hope is that the IRS will confirm this interpretation in its yet-to-be-published Regulations.
2. **Beneficiary is Owner:** The rollover Roth IRA must be in the name of the 529 beneficiary, not the 529 account owner, if different.
3. **15-year 529 Vintage:** The 529 account must have been open for at least 15 years. Unfortunately, it is not clear if a new 15-year waiting period is required when the 529 account is transferred to a new beneficiary. In other

words, it is not clear if the existing time period applicable to the initial 529 account opening carries over to the new 529 beneficiary.

4. **No Contributions for 5 Years:** The rollover amount to the Roth IRA cannot include any 529 contributions, or earnings on those contributions, made in the preceding 5-year period.
5. **Rollover Limited to Annual Roth Contribution:** The rollover from the 529 account to the Roth IRA is subject to the annual Roth IRA contribution limit. The Roth IRA contribution limit in 2024 is \$7,000. Consequently, no more than \$7,000 can be rolled over from a 529 account to a Roth IRA in 2024. Therefore, the rollover of the maximum \$35,000 529 account balance will have to take place over several years.
6. **Contribution Offset:** Any actual Roth IRA or traditional IRA contribution conversions made by the 529 beneficiary to his/her Roth IRA will count against the permitted 529-to-Roth IRA annual rollover amount.
7. **Ordering Rules:** When former 529 dollars are ultimately distributed from the Roth IRA, any funds rolled over will be treated as if they were rolled over from another Roth IRA. Therefore, the ordering rules will apply to the initial 529 dollars that are later distributed from the rollover Roth IRA. The Roth IRA ordering rules mean that contributions come out tax-and-penalty-free, and earnings come out tax-and-penalty-free, but only if the Roth distribution is *qualified*, which means that (i) the 5-year *holding* rule and (ii) the age 59 ½ rule must both be satisfied.

Conclusion: The 529 account-to-Roth IRA rollover is now yet another planning option to consider. How many individuals who will be interested in the option, considering the many limitations and conditions, will remain to be seen. Maybe with some guidance from the IRS through its expected Regulations, more individuals may take advantage of this new planning option.