

1979 Legislation

Parent's and Student's Savings Plan - (PASS)

Chapter 70 of the Laws of 1978 provided for the establishment of the Parent's and Student's Savings Plan called "PASS". A new section 612(k) was added to Article 22 of the New York State Tax Law and T46-112.0(k) was added to the Administrative Code of the City of New York. These sections allow a deduction from Federal adjusted gross income, in arriving at New York income, for contributions made to a qualified higher education fund (PASS).

Chapter 25 of the Laws of 1979 approved March 22 1979, has amended sections 612(k)(1) and 612(k)(3)(D)(iii) of Article 22 of the New York State Tax Law and sections T-46-112.0(k)(1) and T46-112.0(k)(3)(D)(iii) of the Administrative Code of the City of New York to take effect immediately.

The amendments extend the time period in which contributions may be made to a PASS account and be allowed as a deduction for taxable year 1978. They also extend the time period in which a Notice of Consent Form IT-273 is required to be filed by an eligible beneficiary.

The amendments provide that a taxpayer may subtract from his Federal adjusted gross income, on his 1978 New York Personal Income Tax Return, any allowable contributions made to a PASS account during the period January 1, 1978 through April 15, 1979. Any contributions made to a qualified higher education fund (PASS) during the period January 1, 1979 and ending April 15, 1979 shall be deemed to have been made during the taxable year 1978.

Example: A taxpayer established a PASS account on January 2, 1979 for the benefit of his 10 year old son. He made contributions to the account in the amount of \$150.00 on January 2 and \$200.00 on the 2nd of February, March and April for a total of \$750.00. Under the new provisions, the taxpayer may treat the above contributions as being made in 1978 and claim the deduction for these contributions on his 1978 New York State Personal Income Tax return. The taxpayer may continue to contribute up to an additional \$750.00 for the taxable year 1979.

The amendments also provide that an eligible beneficiary is now required to file a Notice of Consent Form IT-273 within 6 months after either his eighteenth birthday or the date on which the fund is established, whichever is later.

Example: A taxpayer has an eligible beneficiary who became 18 on May 1, 1978. Under the old provisions the taxpayer would have been able to establish a PASS account up to November 1, 1978 provided the beneficiary had signed a notice of consent before November 1, 1978. Due to circumstances the beneficiary could not sign the notice of consent by November 1, 1978 and the taxpayer could not set up the account. Under the new provisions, the taxpayer has until April 15, 1979 to set up a PASS account, can contribute up to \$750.00 to the account for each eligible beneficiary and take the deduction on his 1978 New York State Personal Income Tax Return. The eligible beneficiary has 6 months from the date on which the above account was set up to sign the notice of consent.

Taxpayers, who have filed their 1978 New York State Personal Income Tax Return without claiming the above extended benefits, are entitled to amend their return.

This memorandum is a supplement to TSB-M-78-(4)-I, dated June 2, 1978, and should be used in conjunction with the original memo.