**Opinion Letter**

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| **Letter Number:** | **O-2008-005** |

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| **Tax Type:** | **Individual Income Tax** |
| **Brief Description:** | **529 plan contribution** |
| **Keywords:** |  |
| **Approval Date:** | **10/09/2008** |

**Body:**

Office of Policy & Research  
  
  
October 9, 2008

XXXXX XXXXX  
XXXXXXX  
  
Re: Kansas Income Tax  
  
Dear Ms. XXXXX:  
  
Your correspondence of September 10, 2008 has been referred to me for response. Thank you for your inquiry.  
  
Your e-mail indicates you have funds in a savings account that is in your name, custodial for a minor child. You indicate you are going to transfer the money, some $6,000, into a 529 plan, and that you will also be the custodian of that account. By your e-mail you ask whether you can deduct the contribution to the 529 plan on your income tax return, which you file as a joint return.  
  
In response to your inquiry, please be advised the answer is “no”. Based on the information you have provided the funds to be contributed actually belong to the minor child, not to you. As a result, even though you are acting on behalf of the minor child it is really the minor child who is making the contribution to the 529 plan. Because you are not the one making the contribution you cannot claim a deduction for the contribution on your own income tax return.  
  
I trust this information is of assistance. If I can be of further service, please feel free to contact me.  
  
Sincerely,  
  
  
  
Jim Weisgerber  
Attorney  
Tax Specialist  
  
JW:jw  
  
*NOTE: This opinion letter is based solely on the facts provided in your request for advice. If material facts or information were not disclosed this letter is null and void. This letter will be revoked without further action by the Department if the statutes, administrative regulations, published revenue rulings, or court decisions that materially affect this opinion are changed.*  
  
  
**Date Composed: 10/15/2008 Date Modified: 10/15/2008**