

## Dave Kaufmann

---

**From:** Dave Kaufmann [dkaufmann@kaufmann-cpa.com]  
**Sent:** Thursday, November 20, 2008 2:19 PM  
**To:** dkaufmann@kaufmann-cpa.com  
**Subject:** Tax & Finance Newsletter - Down Market Strategies

There has been lots of press about tax strategies in down stock markets. I want to get my 2 cents in on this.

In this newsletter I might refer to a security or mutual fund company. That would be for sake of example. It would not be a recommendation.

### PRIMARY RULE - BOTTOM LINE IS MORE IMPORTANT THAN TAX SAVINGS

Some get so focused about saving taxes that they forget the big picture. The main focus of tax strategies should be to increase wealth. Some tax strategies may save on taxes, but, in the long run, decrease wealth.

### WASH - SALE LOSS AVOIDANCE - HAVE YOUR CAKE AND EAT IT TOO!

A Wash - Sale is when one sells stock for a loss, but also buys a "substantially identical security" in the period that begins 30 days before the loss sale and ends 30 days after the loss sale. In Wash - Sales the loss cannot be deducted.

The key to avoiding a Wash - Sale is to avoid selling and then buying substantially identical securities.

Selling Microsoft and buying Microsoft would be selling and buying substantially identical securities. You lose. No cake for you.

Selling one oil company stock and buying another oil company stock generally would not be a Wash - Sale. You get your cake and eat it too.

Selling Fidelity's S & P 500 Index fund and buying Vanguard's S & P 500 Index fund is a "gray area". The mix of securities should be identical, but there are some subtle differences. Fidelity and Vanguard may have different management fees that reduce the investors' income. There is no guarantee that this is not a Wash - Sale.

Selling Fidelity's health care fund and buying Vanguard's health care fund would not be a Wash - Sale because Fidelity and Vanguard would manage the funds differently.

**WARNING** - Please refer to my last newsletter before buying any mutual funds before year - end. You might get stuck with capital gains tax.

### 529 PLAN NON-QUALIFYING LOSS DISTRIBUTIONS

If you have followed my newsletters, you know that I think 529 plans are, generally, great ways to fund college. The owner can choose to invest in money market funds with low risk to higher risk growth mutual funds. For those that have seen their 529 plans drop in value, they would have seen the same drop in value if they chose the same investment mix outside of a 529 plan. The 529 Plan non-qualifying loss distribution has received lots of good national press. A non-qualifying distribution would generally be a distribution that is not used for higher education. This could be a real trap in Colorado!

If you put \$100,000 into a 529 Plan, and you withdraw all of the funds totaling \$40,000 for non - college use, you can deduct \$60,000. This sounds great! Keep reading. There are mine fields here.

If you are a Colorado resident and invested in one of the Colorado 529 Plans, you were able to take a Colorado deduction. However, if you took the Colorado deduction, a non-qualifying distribution would be Colorado income.

In the above example, \$40,000 would be Colorado taxable income.

Also, consider -

- The \$60,000 would be considered a Miscellaneous Itemized Deduction. Such deductions are deductible only to the extent that they exceed 2% of Adjusted Gross Income.
- If your income is high enough, more of your Itemized Deductions will be further limited.
- If you pay Alternative Minimum Tax, Miscellaneous Itemized Deductions are not deductible. If you do not usually pay Alternative Minimum Tax, this 529 Plan distribution may push you into Alternative Minimum Tax.
- If you put the funds back into a 529 plan too soon after the distribution, you get no deduction.

Please let me know if you have questions about any of these strategies. I recommend that you don't attempt any of these strategies without talking to me first.

Dave

David M. Kaufmann, C.P.A.  
7200 S. Alton Way, Suite B195  
Centennial, CO 80112  
Voice: 720-493-4804 Fax: 303-796-7768  
*Referrals are appreciated!*  
<http://www.kaufmann-cpa.com>

Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that (i) any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

-----  
----

**TO BE REMOVED FROM OUR E-MAIL LIST:** To be removed from the list, please send us a blank message with REMOVE as the subject. If you do so, we will delete your email address from our records. Make sure that you use the same email address in your remove request that we used to contact you with.