

K&L ALERT

TRUSTS & ESTATES

MARCH 2002

This Alert addresses two important current issues:

Automatic Allocation of Generation-Skipping Transfer Tax Exemption

The generation-skipping transfer (“GST”) tax (which is separate from the estate tax) is currently a 50% tax on certain gifts and bequests to grandchildren and more remote descendants. One way of passing property to those beneficiaries without having to pay that tax is to use our “GST exemption,” that currently permits us to shelter up to \$1,100,000 of property from that tax. Many of us have already made (or may in due course make) plans to take advantage of that \$1,100,000 GST tax

advantage of that exemption. Fortunately, we can elect out of this automatic allocation on a timely-filed gift tax return. An election out with respect to gifts made in 2001 will be timely if the gift tax return making the election is filed by April 15, 2002. This deadline can be extended to August 15, 2002, by filing a proper extension request prior to April 15, 2002.

If you made any transfers to any *irrevocable* trust in 2001, you should consult with us, or your tax return preparer or other tax advisor, to determine if you need to elect out of the new automatic allocation rules. If you do need to elect out, you must file either a gift tax return or an extension request by April 15, 2002.

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exemption. Unfortunately, a recent tax law change may take that choice away from us and undermine our tax planning. This is because the new law will *automatically* allocate a portion or all of our GST tax exemption to any transfers made by us on or after January 1, 2001, to certain types of trusts, even if those are not the trusts through which we planned to take

Increase in Annual Exclusion Amount

Many of us have taken advantage of the annual gift tax exclusion that has permitted us to give up to \$10,000 each and every year to anyone with absolutely no gift or estate tax consequence, so long as the gift met certain criteria. This can be a valuable tool to reduce the estate tax that might otherwise be payable at our deaths. On January 1, 2002, the exclusion amount was increased (on account of inflation) from \$10,000 to \$11,000. Those of us who want to take full advantage of the exclusion should consider increasing our annual gifts to \$11,000.

FOR FURTHER INFORMATION about Kirkpatrick & Lockhart's Trusts & Estates Practice, please consult one of the Kirkpatrick & Lockhart LLP office contacts listed below. You may also visit our webpage at www.kl.com.

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