

GENERATION-SKIPPING TRUST

WHAT IS A GENERATION-SKIPPING TRUST?

It is a trust which benefits two or more generations without being subject to estate tax in anyone's estate until the last generation.

WHAT IS AN EXAMPLE OF A GENERATION-SKIPPING TRUST?

An example would be a trust created by C for the use of C's children, then for the use of C's grandchildren, then for the use of C's great grandchildren. Anything remaining in the trust on the great grandchildren's deaths would pass to the great great grandchildren. Since the property in this trust will not be taxed until the great great grandchildren's death, it is a generation-skipping trust.

WHY IS THE GENERATION-SKIPPING TRUST ADVANTAGEOUS?

It is advantageous because if an estate is subject to the estate tax, the minimum estate tax rate is 37%. If the estate tax is avoided for several generations, the estate tax savings and the resulting increase in the value of the trust can be very large.

IS THERE A LIMIT ON HOW MANY GENERATIONS CAN BE BENEFITTED IN THIS WAY?

Yes. The limit is created by a legal rule, the rule against perpetuities. Generally, under this rule, the trust must end before 21 years have elapsed after the death of the beneficiaries who are alive when the trust is created. This is generally 80 to 100 years. You can see why some of the wealthiest families in America use this technique.

DOES THE GENERATION-SKIPPING TAX SUBJECT THIS KIND OF TRANSFER TO TAX?

No. The generation tax subjects this type of transfer to a very high tax; however, the generation-skipping trust takes advantage of the exclusions and exceptions to the generation-skipping tax.

IS IT POSSIBLE TO USE THE GENERATION-SKIPPING TRUST AND ALSO AVOID GIFT AND ESTATE TAX ON THE CREATOR OF THE TRUST?

Yes. With careful planning, it may be possible to avoid the gift tax, estate tax, and generation-skipping tax.

HOW CAN ADDITIONAL INFORMATION ABOUT THE GENERATION-SKIPPING TRUST BE OBTAINED?

If you would like additional information, please do not hesitate to contact us.